the Committee on Finance, and the distinguished assistant Republican leader—that the Senate, on next Wednesday at the conclusion of routine morning business, proceed to the consideration of H.R. 10947, the Revenue Act of 1971.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, and I shall not object, I have discussed this matter with the majority leader and the majority whip, and I am pleased that the acting minority leader is present at this time, as I believe it should be made clear that we are hopeful and we believe that we can report that measure on Tuesday. It may be that the burden of this work may make it impossible for us to do that responsibly, as we would like to do, and we may have to ask for modification of the unanimous-consent agreement at a later time. But if we can, we will meet that deadline.

The PRESIDING OFFICER. There being no objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I thank the distinguished Senator from Louisiana. I know that when he says he is going to do everything he possibly can, he will do just that. Of course, if it becomes impossible, we will face up to that fact when the time comes, but we hope that the bill will be ready for Senate floor action the first thing next Wednesday.

Mr. LONG. We think we can, as of now.

Mr. BYRD of West Virginia. I thank the Senator.

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

Mr. BYRD of West Virginia. I yield.

Mr. LONG. Do I understand the Senator's request to contemplate the fact that we would have until midnight Tuesday to file that report? We might need that much time.

Mr. BYRD of West Virginia. Mr. President, I will put that in the form of a unanimous-consent request: That the Committee on Finance have until midnight next Tuesday to file a report on H.R. 10947.

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

ORDER FOR THE UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of routine morning business, the Chair lay before the Senate the unfinished business, S. 986.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume and hope this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL MONDAY NOVEMBER 8, 1971, AT 11 A.M.

Mr. BYRD of West Virginia. Mr. President, with the understanding that the order can be changed later, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 11 o'clock on Monday morning next.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m.

After the two leaders have been recognized, the distinguished senior Senator from Virginia (Mr. BYRD) will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will resume its consideration of the unfinished business, S. 986, a bill to provide minimum disclosure standards for written consumer product warranties against defect or malfunction, et cetera.

QUORUM CALL

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 12 o'clock and 55 minutes p.m.) the Senate adjourned until tomorrow, Friday, November 5, 1971, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 4, 1971.

DIPLOMATIC AND FOREIGN SERVICE

The nominations beginning Raymond L. Garthoff, to be a Foreign Service officer of class 1, a consular officer, and a secretary in the diplomatic service of the United States of America, and ending Mrs. Patricia D. Thurston, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 28, 1971.

HOUSE OF REPRESENTATIVES—*Thursday, November 4, 1971*

The House met at 12 o'clock noon.

Rev. Charles E. Fair, pastor, Alsace Lutheran Church, Reading, Pa., offered the following prayer:

This is the day which the Lord hath made; we will rejoice and be glad in it.—Psalms 118:24.

We rejoice, Almighty God, that You are here today: You see all, hear all, and know all. We are glad Your presence makes this shrine holy ground.

We rejoice in the history and greatness of America. We are glad for the fortitude of forefathers dedicated to freedom for all people.

We rejoice in the loyalty of today's lawmakers dedicated to justice for everyone. We are glad for the miraculous collection of talent in both Congress and the White House pledged to defend citizens at home and abroad.

Strengthen the Congress for today's challenges with Your word, "If God be for us, who can be against us?" Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 155. An act to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel; and

H.R. 11418. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11418) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and

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appoints Mr. MANSFIELD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. BROOKE, Mr. BOGGS, Mr. PERCY, Mr. SYMINGTON, Mr. CANNON, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 976. An act to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes;

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster; and

S. 2770. An act to amend the Federal Water Pollution Control Act.

THE HONORABLE H. JOHN HEINZ III

Mr. SAYLOR. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania, Mr. H. JOHN HEINZ III, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with respect to his election.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The gentleman from Pennsylvania (Mr. HEINZ) appeared at the bar of the House and took the oath of office.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8687, ARMED FORCES PROCUREMENT AUTHORIZATION, 1972, UNTIL MIDNIGHT FRIDAY

Mr. HÉBERT. Mr. Speaker, I ask unanimous consent that the managers may be given until Friday midnight to file a conference report on the bill H.R. 8687.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the nature of the legislation?

Mr. HÉBERT. It is the military procurement bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11418, MILITARY CONSTRUCTION APPROPRIATIONS, 1972

Mr. SIKES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. SIKES, PATTEN, and LONG of Maryland, Mrs. HANSEN of Washington, and Messrs. MCKAY, MAHON, CEDERBERG, JONAS, TALCOTT, and BOW.

THE LATE HON. A. WILLIS ROBERTSON

(Mr. ABBITT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABBITT. Mr. Speaker, it is my sad duty to inform the House of the passing of a former distinguished Member of this body and a former Member of the other body, the Honorable A. Willis Robertson of Lexington, who passed away this past Monday.

Virginia has lost a distinguished citizen, the Nation has lost a dedicated servant, and I have lost a close friend and political associate.

Born on May 27, 1887, the son of a Baptist home missionary, he attended public schools in Lynchburg, Va. He was a 1907 graduate of Richmond College. In 1908 he received his law degree. He was a member of the Jamestown Society, Omicron Delta Kappa and Phi Beta Kappa.

He served his country well in World War I as an Army infantry officer.

Willis Robertson entered public life in 1916 when he was first elected to the Virginia State Senate where he served until 1922. He then stepped down to become Commonwealth attorney for Rockbridge County from 1922 to 1928. He served as chairman of the commission of game and inland fisheries between 1926 and 1932.

A. Willis Robertson first went to Congress in 1933 as the representative of Virginia's Seventh Congressional District. We served his State and country well. In the House he was floor leader for Cordell Hull's reciprocal trade program.

In 1946 he was first elected to the U.S. Senate after being nominated by a State convention to fill the unexpired term of the Honorable Carter Glass.

In the Senate he was to become the chairman of the Senate Banking and Currency Committee, a position he held until his political career ended in 1966.

He has been described as a polished statesman, a man of impeccable integrity, and as a man whose word was truly his bond.

I ask that all of Congress and Americans everywhere join with me today to pay tribute to a great American whose career spanned more than a half of a century, one who has made his mark in the Halls of Congress. A great American who Virginia will surely miss.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am pleased to yield to the distinguished majority leader.

Mr. BOGGS. I should like to join with the gentleman from Virginia in paying tribute to the late Senator Robertson.

He served in this body, as the gentleman from Virginia has said, for many years and served on the House Committee on Ways and Means. I served with him on that committee.

He was indeed, as the gentleman from Virginia has pointed out, an able and dedicated man, devoted to his State and his country and to his family.

I join with the gentleman from Virginia in extending to his family the sympathy of myself and Mrs. Boggs.

Mr. POFF. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am happy to yield to the distinguished gentleman from Virginia.

Mr. POFF. Mr. Speaker, the late Senator A. Willis Robertson was held in high esteem by all Virginians. He had a personal and family identification with the Sixth Congressional District which I have been privileged to represent. Indeed, a brother who has made his own mark in his own field of endeavor, is one of our most distinguished citizens.

I first came to know Senator Robertson personally when I came to the Congress in January 1953. I will always hold in grateful memory the special acts of kindness he showed me. As a frightened, freshman Republican, I was more than a little lonesome in the new environment. Senator Robertson made me feel welcome.

Those who know him best will always remember Senator Robertson as a man of unusual talent and skill. He had a versatile intellect, sharpened and honed by the disciplines of great learning, his mind was resourceful, retentive and analytical, and when Senator Robertson made a judgment, all could be confident that he had assembled all of the arguments, tested every facet of the problem and applied the rules of equity and justice.

Senator A. Willis Robertson was a great son of Virginia, cast in the mold of Virginia's first great sons. I am proud that I was privileged to serve with him. To his family and his numberless friends, I extend my most heartfelt sympathy in their time of great sorrow.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield to me?

Mr. ABBITT. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I join with the gentleman in expressing to the family of Willis Robertson our deepest condolences and sympathy on his passing.

It was my privilege as a Member of the House of Representatives to have a great deal of exposure to him in conferences on important legislative matters. I did not serve with him in the House, but he was a member of the Senate Committee on Appropriations, and during the course of my service on the House Committee on Appropriations we did have many opportunities to sit down and make decisions or to help to make decisions involving important matters concerning the national security and domestic progress of this country.

I can say with emphasis that Willis Robertson was a statesman of the highest quality and a superb gentleman with all of the best qualities.

The country has lost a great citizen and many, including myself, have lost a dear and wonderful friend.

Mr. ABBITT. I thank the gentleman. I now yield to the gentleman who rep-

resents the district from which Senator Robertson came.

Mr. ROBINSON of Virginia. I thank the gentleman for yielding.

Mr. Speaker, A. Willis Robertson was one of my predecessors as Representative in Congress for the Seventh Congressional District of Virginia.

Senior Members of the House remember him, I am sure, with high regard.

Later, he served with distinction in the other body.

While Senator Robertson was of a different political persuasion, I doubt that there would be an occasion on which I would differ with him on a major fiscal matter if he were serving here today. His sound money, balanced budget philosophy was, and is, subscribed to by most citizens of the Seventh District, and, I believe, most Virginians.

Senator Robertson developed early a reputation as a skilled interrogator at committee hearings, and this talent stood him in good stead in dealing with complex monetary matters. In recent years, the knowledge of fiscal affairs accumulated during his long congressional career was at the disposal of the International Bank for Reconstruction and Development, which he served as a consultant until his retirement to his Lexington, Va., home.

There was, however, another group of friends and admirers which knew Willis Robertson primarily as the dedicated outdoorsman and conservationist. First as a fish and game commissioner in Virginia and later in the Congress, he was a vigorous fighter for the preservation of mountain streams and forests, and for sound fish and game management policies.

Many hunting and fishing areas enjoyed by sportsmen throughout the United States today are available by virtue of cooperative Federal-State programs which he joined in sponsoring.

His passing, therefore, is a great loss to two important causes—sound economic policy and conservation.

My sympathy goes out to the sons of this true Virginia gentleman, and to the other members of his family.

Mr. ABBITT. I thank the gentleman for his kind remarks.

Mr. DANIEL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am glad to yield to my colleague, the gentleman from Virginia (Mr. DANIEL).

Mr. DANIEL of Virginia. Mr. Speaker, I rise to pay tribute to the memory of a great patriotic American, the late Honorable A. Willis Robertson.

Mr. Speaker, in the brief time I have been in the Congress, it has been my sad privilege to rise and comment on the passing of colleagues and former colleagues. It is not a pleasant undertaking, save for one fact. In each instance, I have been confronted, in recollection, with the uniqueness of each man whose virtues we relate and whose memory we revere.

Such a unique man was A. Willis Robertson, late a Senator from the Commonwealth of Virginia.

Willis Robertson cared about the natural resources of this country before he knew the word "ecology." He cared about the good earth, its fruits, the creatures it nourished. It has been said one of the accomplishments of his life of which he was most proud was having served as Virginia's first Commissioner of Game and Inland Fisheries. It is a mark of the man that the honors garnered over nearly half a century of public service failed to outshine, in his own esteem, this contribution to the people of his State and the fine heritage of its natural resources.

As is so often the case with the offspring of ministers, Willis Robertson inherited and nutured a spiritual quality, a steadiness of character, a firm and proper sense of the balance between man, his God, and his world, for which the people of our Nation may be grateful.

A man who never abandoned his views of a better world in nature and his hopes for a better world for his fellow man, Willis Robertson bestowed a legacy on all of us.

Mr. ABBITT. I thank the distinguished gentleman for his comments.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I yield to my colleague from Virginia.

Mr. WAMPLER. Mr. Speaker, Senator A. Willis Robertson was a true Virginia gentleman and a great statesman in every sense of the word. Most of his life was devoted to working for the people of his State.

His deep moral convictions were an inspiration, the integrity of his political life was faultless, and his dedication to responsible government was an example to all who followed him.

The people of Virginia are grateful for his unselfish leadership and service, to which he devoted the best years of his life.

I would like to extend my deepest sympathy to his family, his friends, and his colleagues.

Mr. SCOTT. Mr. Speaker, the Nation was saddened on November 1 by the loss of one of the ablest citizens of our times, the Honorable A. Willis Robertson.

Willis Robertson, a widely respected public servant of considerably more than a third of a century, was eulogized as "a man of tireless energy with a deep sense of patriotic devotion."

In the days before "conservation" and "ecology" were either widely understood or supported. Willis Robertson set his strong mark in this field both in Virginia and the Nation. In the 1920's he was selected as the first chairman of the Virginia State Commission on Game and Inland Fisheries. In related work after he came to the Congress, Willis Robertson cosponsored legislation to assist States in providing refuge and breeding places for migratory birds and to increase the supply of upland game. He also sponsored an act to direct the U.S. Forest Service to help conserve wildlife on the millions of acres under its jurisdiction.

As a member of the Ways and Means Committee of the House—the first Virginian to serve on that body in a third of a century—he became a ranking power known for his integrity, legislative craftsmanship, hard work, and persuasive diplomacy. Later, in the Senate, he continued to be exemplified by these same outstanding traits and became an expert in the fields of banking, currency, tariffs, and trade. He served with great distinction as chairman of the Senate Committee on Banking and Currency.

Senator Robertson, always a stanch supporter of the Constitution and a believer in States' rights, had the power of eloquent rhetoric—but it was never misused. In an editorial, his close friend, Gen. E. Walton Opie said;

> Absalom Willis Robertson won himself a place in Virginia and U.S. history as a statesman who put state and country above personal and political considerations. . . . He enjoyed tremendous personal popularity with his colleagues in both parties, an influence which was effective in creating decisive support for good legislation.

The tribute to Willis Robertson on his 79th birthday by his Massachusetts colleague, Senator Leverett Saltonstall, is a fitting summation of the man and his work:

> I have served with Willis Robertson on the Appropriations Committee of the Senate for eighteen years and I know he has his feet on the ground with relation to the expenditures of our Government on the programs that are submitted to the Congress. He is always thoughtful concerning his Virginia constituency, but places his country above his State on matters that affect the Nation as a whole.

I join his numerous friends in mourning the loss of this outstanding leader, and extend my sincere condolences to his family.

Mr. DOWNING. Mr. Speaker, I am tremendously saddened by the passing of Senator A. Willis Robertson. He was a great Virginian who served his beloved Commonwealth and Nation with great distinction.

I shall never forget the many kindnesses he bestowed upon me when I first came to the Congress. Nor shall I forget the sound advice and counsel he gave me on innumerable occasions. I have many wonderful memories of him which will not soon fade from my mind.

I was with him at, what I term, his finest moment of service to his country. Senator Robertson chaired the United States delegation to the Inter-Parliamentary Conference being held in Brazilia, the capital city of Brazil, in the fall of 1962. Our delegation arrived in Brazilia on the same day the late President John F. Kennedy announced the naval blockade of Cuba. As fate would have it, all communications between Brazilia and the outside world suddenly and mysteriously ceased. The representatives of the 80-odd nations of the world assembled at the conference, were without any information whatsoever as to what action followed the President's announcement. Rumors were abounding. One such rumor had it that one of Russia's missile-bearing ships had been sunk and that a state of war existed.

The Red bloc sometimes preempted the first day of the conference. For 4 hours, the representatives from the Communist-controlled countries castigated the United States, stating time after time that there were no missiles in Cuba and that this was a ruse by the United States

to mask the beginning of world war III.

After the Communists had exhausted their opportunity to speak, the House became silent and all eyes turned to the chairman of the U.S. delegation, the Senator from Virginia, A. Willis Robertson, to respond.

Without any information as to the current status of events, Senator Robertson rose to the defense of the United States of America—and he did so magnificently. Combining a superior intellect and years of experience, he extolled the virtues of our country, our desire for peace, and our integrity as a nation.

He spoke for nearly an hour and a half. There are few Americans who could have risen to the task under those circumstances. When he had completed his remarks, a thunderous ovation spread throughout the house and one by one, all of representatives of the free countries of the world rose to their feet in applause.

Senator Robertson was a great Virginian and a great American. He shall be missed.

Mr. ABBITT. I thank the distinguished gentleman for his kind remarks.

Mr. WHITEHURST. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I yield to my colleague from Virginia.

Mr. WHITEHURST. Mr. Speaker, I wish to join in the tributes that have been made by my colleagues from Virginia regarding the late Senator A. Willis Robertson.

My memory of Senator Robertson goes back to 25 years when he was in Lexington, Va., at which time I was a student at Washington and Lee University. I recall so well seeing Senator Robertson there on the streets talking to the students. He was so friendly and open.

As I recall his record as a servant of the Old Dominion, I am reminded of the principles for which he stood foremost; honesty, integrity, and a very fine spirit of service.

Mr. Speaker, I think it is significant that his son has pursued an entirely different career and yet a career with which his father found time to identify. His son has had a remarkable success with the Christian Broadcasting Network in Norfolk, Va., which has reached out in a most significant way to touch the lives of tens of thousands of people spiritually just as his father touched the lives of all Americans and those who served with him here in the Congress.

I thank the gentleman for yielding.

Mr. ABBITT. I thank the gentleman for his remarks.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am pleased to yield to the distinguished gentleman from Florida.

Mr. SIKES. Mr. Speaker, I am privileged to join my distinguished friend and able colleague, the gentleman from Virginia (Mr. ABBITT), and those of the other distinguished Members who have preceded me in their comments about the late A. Willis Robertson, a former colleague and an outstanding American.

I knew Willis Robertson very well. It was my privilege to serve with him for a number of years in the House prior to his service in the Senate. I continued to enjoy the privilege of working with him after he became a member of that body. I knew and appreciated the caliber of this distinguished gentleman, and I can attest to the very many contributions which he made. He was indeed a dedicated public servant.

Mr. Speaker, I valued his friendship and I know that his death is a great loss to America.

I extend my deepest sympathy to the survivors and friends of the family in this hour of sorrow.

GENERAL LEAVE

Mr. ABBITT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life and service of the late Honorable A. Willis Robertson.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have asked for this time for the purpose of asking the distinguished majority leader the program as he foresees it between now and the end of the month of November.

Mr. Speaker, I yield to the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker, in response to the gentleman's question, I might say we will be in session tomorrow. It is our hope next week not to meet on Friday. We would plan to meet on Thursday, Friday, and possibly Saturday before Thanksgiving.

Mr. GERALD R. FORD. That is the 18th, 19th, and 20th of November—Thursday, Friday, and Saturday.

Mr. BOGGS. That is right. We will plan to meet Thursday, Friday, and possibly Saturday which would be the 18th, 19th, and 20th of November.

If we are able to complete the legislative calendar; that is, the bills that have been reported out by committees and upon which rules have been granted, plus the appropriation bills that are available between now and then, we would hope to take Thanksgiving week off and then to come back thereafter until such time as we are able to adjourn the Congress.

Mr. GERALD R. FORD. That would be to adjourn on Friday, the 19th, or Saturday, the 20th, over until Monday, November 29?

Mr. BOGGS. As I said to the gentleman, that is correct—but it is conditioned on, and this is most important—it is conditioned upon completion of the legislative calendar between now and that time. There are some very controversial bills that have to be disposed of.

Mr. GERALD R. FORD. I thank the distinguished majority leader.

ROBERT N. C. NIX, JR., SON OF CONGRESSMAN ROBERT N. C. NIX, ELECTED TO SUPREME COURT OF PENNSYLVANIA

(Mr. EILBERG asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EILBERG. Mr. Speaker, on Tuesday, November 2, the distinguished son of a distinguished father was elected to the Supreme Court of Pennsylvania, the highest court in our Commonwealth. I refer to Robert Nix, Jr., who is the son of our colleague.

Young Bob Nix is a distinguished lawyer, having learned the art at the knee of his father. Later he became deeply involved in the affairs of the Democratic Party. All of his skills as a great lawyer and campaigner were brought to bear in the statewide campaign just concluded. This young effective speaker and organizer crossed the State in one of the best campaigns ever conducted.

I think it entirely appropriate that the House in which BOB NIX, Sr. has served so well should know of this great event in the Nix family. And I am sure that all of my colleagues join me in wishing BOB NIX, Sr., and Bob Nix, Jr., many fruitful years ahead.

DIVERSION OF ALCOHOL EXCISE TAX TO HIGHWAY TRUST FUND

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to bring to our colleagues' attention the action taken by the Senate Finance Committee yesterday in moving to divert permanently 7 percent of the Federal taxes collected on alcoholic beverages to the highway trust fund. It is ironic that the highway lobby, that has often stressed that financial support for the highway trust fund comes from user taxes, should pick the tax on alcohol, the most dangerous substance to highway users to supplement the highway trust fund's revenues. It is estimated that alcohol is the cause of at least half the fatal highway accidents.

More ludicrous, however, is that the Treasury, during these times of large deficits and critical budget cuts, would bear an estimated $350 million loss annually—and probably more in the future—to feed a trust fund that now has a surplus of $3.648 billion. In fiscal year 1972 alone, the highway trust fund's estimated surplus will be $1,136 billion. The receipts are expected to total $5.904 billion and the authorized expenditure will total $4.768 billion.

The Senate Finance Committee reportedly acted to make this transferral of funds to make up for the revenues that the highway trust fund will lose with the termination of the 10 percent tax on lightweight trucks, one of the tax reductions provided for in the President's economic package. Surely, the highway trust fund, with one of the few surplus budgets in our Federal Government, can afford a loss of $350 million.

Even with this reduction in revenues, its surplus in fiscal year 1972 will total $786 million, to be added to the $3.648 billion surplus already accrued from past years.

May I suggest that if we are to divert Federal taxes on alcohol, we should put this money into mass transit where the needs are so great. Certainly, it is a lot safer for the alcohol user to be on a subway or bus than on a highway.

THE BEN C. MOOMAW DAM AND LAKE

(Mr. POFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. POFF. Mr. Speaker, I have today introduced in the House of Representatives a bill to name the Gathright dam project in honor of Ben C. Moomaw, Jr., of Covington.

It is entirely fitting that this important flood control and recreational facility now under construction on the headwaters of the James River should bear a name which has become synonymous with efforts to promote the development of water resources and recreational facilities in the James River Basin. If there is any single "Father of the Gathright Dam", it is Ben Moomaw.

For more than a quarter-century, as executive director of the Covington-Alleghany County Chamber of Commerce, and as chairman of the James River Basin Association's Gathright Dam Ways and Means Committee, Ben Moomaw has championed projects in all phases of water resources development and recreation generally, and the Gathright dam project in particular.

In recognition of his long record of outstanding service to the public, the bill which I have introduced today would officially designate the Gathright dam and reservoir as "Ben C. Moomaw Dam and Lake." The James River Basin Association recently endorsed this proposal.

CALL OF THE HOUSE

Mr. ARENDS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 348]

Ashley	Diggs	Martin
Aspinall	Edwards, La.	Montgomery
Baker	Gallagher	Myers
Baring	Gubser	Pelly
Barrett	Halpern	Pirnie
Belcher	Hansen, Idaho	Pryor, Ark.
Blanton	Hébert	Rees
Broyhill, Va.	Horton	Scheuer
Cabell	Hosmer	Sisk
Carney	Jarman	Skubitz
Cederberg	Johnson, Calif.	Stanton,
Chisholm	Jones, Tenn.	J. William
Clark	Kee	Stanton,
Clay	Lloyd	James V.
Dellums	Long, La.	Teague, Calif.
Dennis	Lujan	Wright
Derwinski	McClure	

The SPEAKER. On this rollcall 382 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REPORT ON RESOLUTION PROVIDING FUNDS FOR EXPENSES OF THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. THOMPSON of New Jersey, from the Committee on House Administration submitted a privileged report (Rept. No. 92–607) on the resolution (H.R. 601) providing funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the House of Representatives and for the investigation of additional computer services for the House of Representatives, which was referred to the House Calendar and ordered to be printed.

HIGHER EDUCATION ACT OF 1971

Mrs. GREEN of Oregon. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7248) to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education.

The SPEAKER. The question is on the motion offered by the gentlewoman from Oregon.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7248, with Mr. EDMONDSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on yesterday, it was agreed that title X, ending on page 202, line 8, of the committee substitute amendment would be considered as read and open to amendment at any point.

For what purpose does the gentleman from New York rise?

POINT OF ORDER

Mr. CELLER. Mr. Chairman, I make a point of order with reference to section 1007 of the committee substitute, the contents of which are exclusively within the purview of the House Judiciary Committee. It concerns the Civil Rights Act of 1957, and there are a number of bills pending in our committee concerning that act. For that reason a point of order is being made to the provisions and a motion is made to strike.

The CHAIRMAN pro tempore. Does the gentlewoman from Oregon wish to be heard on the point of order?

Mrs. GREEN of Oregon. Mr. Chairman, I concede the point of order.

The CHAIRMAN pro tempore (Mr. EDMONDSON). The point of order is conceded. The Chair sustains the point of order and the language in section 1007 is stricken.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Beginning with line 11, on page 198, strike out everything down through line 12 and insert in lieu thereof the following new subsection "(1)":

"(1) to the undergraduate admissions policy of any institution of higher education."

Mr. ERLENBORN. Mr. Chairman, the amendment I have just offered has been read, but so that Members may understand what it does, on page 198 of the bill, title X, section 1001, subsection (1) would be stricken, and new language would be inserted in lieu thereof. The new langauge will read:

To the undergraduate admissions policy of any institution of higher education.

This in effect would remove the exception for the substantially single sex institution in the bill. When it says "substantially," it means 90 percent or more. It applies equally to the undergraduate and the graduate, so that in the bill we can have a single sex graduate school, medical, or dental, or law or whatever it might be.

My amendment would strike that exception and apply the exception only to the undergraduate admissions, so there would be no question of quota or governmental determination of any degree as to the undergraduate admissions, but we would still require equal and complete access to the graduate school, the entry to the professions.

So Members do not feel a vote for this amendment means a vote against civil rights or human rights, I would like to point out I have received a telephone call from Father Hesburgh, president of Notre Dame University, currently Chairman of the Civil Rights Commission, in support of this amendment. He understands the impact of the language on the individual undergraduate schools, particularly those such as his, that would be thinking in terms of moving away from the single sex concept and moving toward having both sexes in their institution. Also Harris Wolford, president of Bryn Mawr, formerly U.S. Staff Director of the U.S. Commission on Civil Rights, has indicated by telegram his support for this amendment. So I do not think anyone need apologize for his support of this amendment in terms of his support of civil or human rights.

Mr. Chairman, I offer this amendment to preserve the swiftly eroding rights of the colleges and universities of America. We must view title X for what it plainly is, just one more giant step toward involvement by the Federal Government in the internal affairs of institutions of higher education. The constant danger is that all too often Federal involvement in the internal affairs of institutions is but the first step toward ultimate Federal control.

I wish to make it clear, however, that I am not against equality between the sexes and that I do not oppose the right of women to attend college. What I do oppose is the superior judgment omniscience which Congress supposes in leg-

islating what the ratio of sexes can or cannot be in our institutions of higher education. I doubt that Congress knows more than anybody else on the subject of the proper mix of sexes in undergraduate programs. Indeed, there is just no evidence at all to support the argument that any fortuitous division of the sexes in an undergraduate student body is good and that any controlled division—even 50–50—is bad or should be declared unlawful. Yet, that is the necessary conclusion from title X.

Passage of title X would establish a dangerous precedent. It is an extremely grave decision that faces us, whether we will enact legislation adopting the policy that the Federal Government can reach into the very heart of local, private institutions and remove from those vested with authority the right to control the character of their own institution. I feel that if Congress permits the Federal Government to take away from colleges their right to determine the composition of their own student bodies, it will plant the seed of destruction for our system of higher education as we know it.

Responsibility for higher education has traditionally belonged to State and local governments. In the Higher Education Act of 1965, the basic law which H.R. 7248 seeks to amend, there was a substantial increase in the amount of Federal aid to institutions of higher education. There was not, however, any corresponding increase in Federal controls. Consistent with its traditional policy, Congress refrained from imposing Federal controls over the use of the funds. Section 804(a) of that act states:

> Nothing contained in this chapter shall be construed to authorize any department, agency, officer or employee of the United States to exercise any direction, supervision or control over the curriculum, program of instruction, administration, or personnel of any educational institution, or over the selection of library resources by any educational institution.

The rationale used to support this absence of Federal controls over the use of Federal funds was that administration of higher education is a State and local prerogative, and that Federal educational programs should be administered by the institutions of higher education themselves.

I also vividly recall the debates in 1969 over the proposals to cut off Federal financial aid to students who participated in violence and unlawful acts. In all candor, I must admit that the cogent arguments presented then against the introduction of Federal control over strictly internal matters, such as student discipline, have convinced me of the merit of that position and its relevance to the provisions of title X. Then, as now, the enactment of Federal controls poses a real threat to the freedom and dynamic existence of higher education.

Enactment of the provisions of title X would also significantly weaken one of the great strengths of the American system of higher education—diversity. Diversity in the types of educational institutions affords more freedom to students, allowing each the opportunity to select the type of educational environment best suited to their individual needs, and encourages colleges to exeriment and develop innovative programs. The imposition of a monolithic unity by Federal statute would serve only to homogenize campuses, a condition repugnant to the very nature of higher education in this country and contrary to the best interests of the future generations of college students.

It is significant to note that while the percentage of high school graduates which are female has been declining since 1945, the percentage of first-time undergraduate admissions represented by females has been increasing. The following figures demonstrate this relationship:

[In percent]

	Percentage of high school graduates (female)	1st time undergraduate female enrollment
1945	56.8	28.3
1970	50.5	44.7

Similarly, females have continued to represent a larger percentage of the total undergraduate enrollment, increasing from 31.7 percent in 1946 to 41.1 percent in 1970.

I would also like to bring to the attention of my colleagues an apparent incongruity title X presents with the basic concept of H.R. 7248. The higher education bill is specifically designed to provide assistance to our institutions of higher education at a time of severe financial strain. Title X, however, runs contrary to the intended purpose of H.R. 7248 and the financial relief it attempts to provide. Application of title X to undergraduate admissions in institutions of higher education will impose an unwarranted financial burden upon many of the same institutions which the higher education bill seeks to aid. It seems unreasonable to me that Congress could recognize the financial needs of our colleges, and seek to assist them, on the one hand, and, on the other hand, attempt to impose what amounts to financial penalties upon many of the institutions because of the composition of their student bodies. Such a result is incongruous.

I would like to note that there is broad-based opposition within the higher education community to title X insofar as it applies to undergraduate admissions. The following points indicate the support I have found for my amendment:

First. The provisions of title X have been opposed by editorials in the New York Times—August 15 and October 1, 1971—and the Washington Post—September 16, 1971.

Second. The Association of American Universities, composed of 46 major universities in 27 States from coast to coast, expressed opposition to title X insofar as it applied to undergraduate admissions—CONGRESSIONAL RECORD, page 38641, November 1, 1971.

Third. Numerous individual colleges and universities across the country have expressed their opposition to the provisions of title X. Statements from several of these have been printed in my remarks in the CONGRESSIONAL RECORD, pages 38639–38641, November 1, 1971. Those institutions include:

Bowdoin College, Brunswick, Maine; Bryn Mawr College, Bryn Mawr, Pa.; Columbia University, New York, N.Y.; Dartmouth College, Hanover, N.H.; Harvard University, Cambridge, Mass.; Mercer University, Macon, Ga.; Princeton University, Princeton, N.J.; Smith College, Northampton, Mass.; Rockhurst College, Kansas City, Mo.; and Yale University, New Haven, Conn.

The issue before us on this amendment is crucial. I urge my colleagues to reject the policy that would thrust the Federal Government into the internal administration of undergraduate admissions, and instead to vote to preserve the right of our colleges and universities to determine for themselves what the composition of their student body will be.

The CHAIRMAN pro tempore (Mr. BOLAND). The time of the gentleman from Illinois has expired.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object—and I do not intend to object—I certainly do not want the membership to be put in the position of taking ample time on these early sections and then being faced with the possibility of having little time on later sections. Is there any indication that there will be an attempt to limit time? If there is, I intend to object to all requests for additional time.

Mrs. GREEN of Oregon. I certainly at this time am not going to try to reach any agreement on a limitation of time. I do hope we can finish the entire bill before too late in the evening. So I appeal to all to exercise self-restraint.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BURTON. Mr. Chairman, I object to the unanimous consent request. I had an amendment pending, and the gentleman took my place in line.

Mrs. GREEN of Oregon. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we had a vote on the equal rights amendment the other day and the vote in the House was 354 for the equal rights amendment, 23 against and 52 not voting. And when the Wiggins amendment was offered there were only 87 who supported it and there were 265 against it.

The equal rights amendment goes much further than title X of the bill that is before us.

Mr. Chairman, the gentleman from Illinois who just offered this amendment voted for the equal rights amendment when it was before the House last year. He signed the petition to discharge the Judiciary Committee, and he voted for that amendment.

I say to the Members that any amendment to title X, that says we are going to end discrimination and then excepts 95 percent of the institutions in this country, is pure fraud.

The gentleman has used the argument

that Father Hesburgh is in favor of his amendment and therefore none of the Members need to be embarrassed if they vote for it. I want to say that I have admired and had great respect for Father Hesburgh over a period of years, but I apologize for him for his stand on this. How a person as Chairman of the Civil Rights Commission of the United States can make eloquent statements about having to end discrimination in this country and then say it is perfectly all right to continue the discrimination against over 50 percent of the people of this country I do not know.

There is ample documentation that this discrimination occurs. Last year our subcommittee held hearings on discrimination. Our two volume hearing record contains page upon page citing the pervasiveness of this discrimination in our society and in our institutions. The gentlemen across the aisle are fond of quoting the Newman report on hgher education. That report also contains an excellent chapter documenting discrimination against women and I would like to place in the RECORD some excerpts from that chapter so all the Members may be apprised of the findings in the report:

EXCERPTS FROM NEWMAN REPORT ON DISCRIMINATION AGAINST WOMEN

The higher education community prides itself on its leading role in the fight to end intolerance in American society. Yet with regard to women, colleges and universities practice a wide range of discrimination. These institutions view women primarily as wives and mothers and their education as preparation for these functions.

The Task Force has identified three major types of barriers which block full participation by women in higher education: first, overt discrimination by faculties, deans etc. . . .; second, practical *institutional barriers, such as rigid admission*, and residence requirements, and a lack of campus facilities and services . . .; third, the ingrained assumptions on the part of both men and women which deny the talents and aspirations of the latter.

If there were any assurance that the denial of equality is rapidly becoming a thing of the past, there could perhaps be some complacency. But it is not merely residual; in some ways, it is increasing. The proportion of 18 and 19 year old males enrolled in higher education increased 20% between 1950 and 1966, but the participation of females increased only 11%. The percentage of master's degrees obtained by women reached its peak in 1930 at 40.4% and declined to 38% in 1968, while the percentage of doctor's degrees obtained by women reached its peak in 1930 at 15.4%, and was down to only 12.6% in 1968.

"The first such barrier is outright discrimination against women as students, especially at the graduate level. Although few admissions officers or members of graduate fellowship committees would confess to discrimination on the basis of "race," many openly argue that "women" should be denied opportunities because they are women . . .

"The facts tend to contradict the view that women are poorer risks than men in their disposition to complete training. The percentage of entering undergraduate students who graduate in four years is about 15% higher for women than men.

The other day the gentleman from Illinois placed in the RECORD information stating that the American Association of Colleges had unanimously voted in favor of the amendment which he has offered to title X. The letter in question, dated November 2, reads in part, as follows:

The Association of American Universities, composed of 46 major universities in 27 States from coast to coast, expressed unanimous opposition to title X insofar as it applied to undergraduate admissions.

That statement is inaccurate, highly misleading and, I think, it is a great disservice to this body. I have telegrams and letters from several of the people listed in the CONGRESSIONAL RECORD as having supported that position who tell me that they never knew about it and they did not vote for it. In fact, many opposed that position. So that other Members may be able to correct the impression conveyed by the insert in the RECORD of November 2, I will place in the RECORD at this point those communications I have received relative to the insert:

WASHINGTON, D.C.,
November 3, 1971.

Congresswoman EDITH GREEN,
Rayburn House Office Building,
Washington, D.C.:

The discussion in the Association of American Universities reported in a letter of Charles Kidd of October 29 to Mr. Erlenborn with regard to title X of HR 7248 was held when a number of members including myself were not present. It is inaccurate to associate the entire membership of the AAU with the communication.

JAMES M. HESTER.

WASHINGTON, D.C.,
November 3, 1971.

Hon. EDITH GREEN,
House of Representatives,
Washington, D.C.:

I was among those not present at AAU meeting during latter part of discussion on title ten and personally regret mistaken report of official AAU action.

MALCOLM MOOS,
President, University of Minnesota.

ITHACA, N.Y.,
November 3, 1971.

Hon. EDITH GREEN,
Rayburn House Office Building,
Washington, D.C.:

Kidd letter of October 29 to Erlenborn does not represent position of all members of AAU.

DALE R. CORSON,
President, Cornell University.

EUGENE, OREG.,
November 4, 1971.

Congresswoman EDITH GREEN,
House Office Building,
Washington, D.C.:

The Charles Kidd letter and the CONGRESSIONAL RECORD of October 29, does not represent the position of all AAU members.

I voted against the motion as did several others.

R. D. CLARK,
President, University of Oregon.

CHARLOTTESVILLE, VA.,
November 4, 1971.

Hon. EDITH GREEN,
Rayburn Building,
Washington, D.C.:

In connection with Kidd's letter of October 29 wish you to know that NOT all members of Association of American Universities were in accord with the position taken by the membership.

EDGAR F. SHANNON, Jr.,
President, University of Virginia.

THE UNIVERSITY OF WISCONSIN,
Madison, Wis., November 3, 1971.

Hon. EDITH GREEN,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE GREEN: The University of Wisconsin is very much in favor of your Higher Education bill, and we hope that the House of Representatives sees fit to pass it.

However, two proposed amendments which may come up this afternoon have raised questions in my mind. The first is an attempt to exclude Title 10 (the provision against discrimination against women). The University of Wisconsin could *not* support the removal of Title 10. I have just heard that my name has been attached to a list of proponents of those interested in the removal of Title 10 as it pertains to undergraduate students, and I want to assure you that I have not and would not put my name to such a proposition. Indeed, I find it difficult to imagine that the President of any public institution of higher education would support it.

The second possible amendment to raise a question at this time is the Emergency Aid proposal. While the University of Wisconsin is certainly not against Emergency Aid, we do feel it should be considered separately from the original Green Bill.

Sincerely,

JOHN C. WEAVER,
President.

THE ASSOCIATION OF AMERICAN UNIVERSITIES,
Washington, D.C., November 2, 1971.

Representative JOHN N. ERLENBORN,
Cannon House Office Building,
Washington, D.C.

DEAR MR. ERLENBORN: I am writing to you with reference to my letter of October 29 reporting the attitude of the Association of American Universities towards Title X of H.R. 7248.

I have been instructed by the President of the Association, President William C. Friday of the University of North Carolina, to convey to you the circumstances and weight of the discussion of Title X at the AAU meeting. The discussion of Title X came at the end of a long meeting. Many members of the AAU were not present at that time and some of those present were not opposed to the legislation. The opposition to Title X as currently worded is not the position of many members of the AAU.

I regret that my letter reflected a solid position of the AAU, which does not in fact exist.

Sincerely yours,

CHARLES V. KIDD.

UNIVERSITY OF CALIFORNIA,
Berkeley, Calif., November 3, 1971.

Hon. EDITH GREEN,
Rayburn House Office Building,
Washington, D.C.

DEAR MRS. GREEN: I have just learned of the two letters sent by Charles Kidd, Executive Secretary of the Association of American Universities, to Congressman John N. Erlenborn in connection with Title X of H.R. 7248. Let me hasten to say that Mr. Kidd's second letter more nearly represents my position. While I attended the meeting of the AAU at which Title X was discussed, I considered it to be in no way applicable to the University of California and so abstained from voting. My name, along with several other members of the Association, was listed in Mr. Kidd's first letter in error.

The California Constitution prohibits this University from discriminating on the basis of sex, race, or religious beliefs, and I believe our record has been admirable. In particular, women have been admitted in substantial numbers ever since our chartering over one

hundred years ago. During my administration, we have made a strong effort to increase participation of all groups in every area of the University, to expand educational opportunities to include those who have been underrepresented. I assure you we have no institutional reason to oppose Title X, and that I have not in fact done so either individually or through the AAU.

Yours sincerely,

CHARLES J. HITCH.

Copy of Mailgram to Congresswoman BELLA ABZUG:

In response to your request I strongly affirm my support of H.R. 7248. I oppose discrimination against women and support the intent of Title X.

JAMES M. HESTER,
President, New York University.

Mr. ERLENBORN. Will the gentlewoman yield?

Mrs. GREEN of Oregon. No. I only have 5 minutes, as the gentleman had.

Mr. Chairman, let me just discuss this very briefly.

As I said before, it does not go as far as the equal rights amendment. I see no reason why anybody who supported the equal rights amendment should hesitate in the least to support title X as it is now written. There were 87 people on the floor of the House that day who expressed reservations about the equal rights amendment. I do not doubt their sincerity at all, but they said that they would rather have specific legislation targeted at a particular kind of discrimination. They wanted the protective legislation for women and that they were concerned about the draft status. I would suggest that there is nothing in title X that needs protective legislation. As Nathan Pusey, the former president of Harvard University, said before my committee one time when we were discussing the draft and a possible draft exemption for everybody in graduate schools, Nathan Pusey said that unless we gave such an exemption he would be left with the blind, the lame, and women.

I would just suggest that we need no protective legislation for the blind, the lame, or women who are in our colleges and universities. So it seems to me what we are really talking about is whether or not we shall continue to allow the colleges and universities in this country to set up quotas in terms of admission and to do the other things prohibited by the bill.

I want to make it perfectly clear that in title X there is no quota. I am opposed to quotas. I differed with the gentleman from Illinois when we were considering the Equal Employment Opportunity Commission legislation. I am absolutely opposed to the Philadelphia plan. If a college has 5,000 men and 3,000 or 4,000 women in it and if we adopt title X, it does not mean that the college has to bring the number of women up to 5,000. If we do that, then we are engaging in discrimination, also. In that case we would be discriminating against men. All I want and all I ask is that if two individuals, a man and a woman, come to a college or a university and they have equal credentials and apply for admission, that they shall be treated as equals—two individuals without any quota.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I find myself as a member of the committee in the same position that many of my colleagues do, with grave doubts.

We have heard two presentations, both of them from articulate and respected Members who expressed opposing views which, quite frankly, leave the question up in the air.

I believe the record has been left in a position where many Members cannot make a decision at this point.

I will yield to the gentleman from Illinois. I know he has some questions to ask.

Mr. ERLENBORN. I thank the gentleman for yielding.

First of all, let me say that if I had been granted the ordinary courtesy of continuing with my original statement, I would have had 5 additional minutes in which to explain.

I wanted to point out that the letter I sent out the other day was in error in saying that it was a unanimous decision of the American Association of Universities. It was, however, adopted as a policy when they had a quorum present. I had been ill advised. It was not unanimous. The gentlewoman is correct on that point.

However, when she says that Father Hesburgh is wrong about treating undergraduate and graduate students differently, as my amendment would do, I point out the gentlewoman herself on June 7 of this year wrote a letter to Albert Fitt of Yale University in which she said—

Your suggestion that there is a distinction between graduate and undergraduate programs fits my own thinking. I now propose to modify title X to prohibit in participating institutions any discrimination in graduate or professional training or indeed vocational or occupational training on any level.

So the undergraduate admission of students under the gentlewoman's thinking at that time indeed would have been in line with the very amendment I am offering today.

So, if she feels like apologizing for Father Hesburgh, she may do so. But to indicate that this is a fraud for me to offer this amendment is entirely unfair. I think it covers the very thing that she expressed in this letter of June 7. I do not think that she is at all fair. I think she should have yielded to me since she mentioned my name but having refused to yield to me and having used my name in debate, I intend to take a special order and point out where she introduced in the RECORD under general leave to extend questions about the EEOC substitute bill I offered and later said that I did not answer them. Of course, I did not answer them. She did not put the comments in the RECORD until after the debate was over and she introduced them under general leave to extend.

Mr. Chairman, I do not think the membership of the Committee of the Whole is going to let tactics like that affect their thinking. This is a valid amendment. It does not allow interference with the internal administration of the undergraduate schools.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield to me in order that I may respond to the gentleman from Illinois?

Mr. ASHBROOK. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. With respect to the correspondence with Mr. Fitt, my early intention was to have an absolute prohibition against any discrimination at the graduate level or undergraduate level. In that letter to Mr. Fitt I said I would modify my position with reference to the undergraduate level.

Mr. Chairman, title X does modify my original position. We now have three exemptions. The title provides that there shall be no discrimination against women in our institutions.

However, I am not interested in creating any undue burden for our colleges and universities. So, if an institution is substantially of one sex, and we define that as 90 percent, it would not come under title X. This would include the various military academies and many small colleges run by religious orders.

The second exemption says that we will exempt, in the nature of a grandfather clause, those institutions which are moving from one sex to coeducational status and provides that they shall have 7 years for that transition.

The third exemption provides that schools of divinity or seminaries are exempt. Except for these specific exemptions, however, the provisions of the title would apply to our higher education institutions.

Mr. ASHBROOK. I thank the gentlewoman for her clarification.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I yield further to the gentleman from Illinois.

Mr. ERLENBORN. I point out the fact that the gentlewoman from Oregon has not denied the fact that she inserted those comments concerning EEOC in the RECORD. However, I would point out also as to this amendment the language of the bill. They have 7 years from the time the institution began to switch to coeducational. In the event it has been 6½ years since they undertook this change, when this transition was undertaken, they will have only 6 months to complete that process, or if it began 8 years ago, they would have no time left.

The fact is that undergraduate admissions should not be the subject of determination in this House. This Congress should leave these decisions to be made by the administration of the various institutions.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Erlenborn amendment to title X of the Higher Education bill. It is utter nonsense to argue that the Federal Government has the responsibility to protect the civil rights of its citizens, and to exclude women from this protection! That is the essence of the Erlenborn amendment.

He states that it would be a dangerous precedent to empower the Federal Government to cut off funds from colleges and universities if they adopted discrim-

inatory admission policies. This precedent was established with the passage of the Civil Rights Act of 1964. And the gentleman from Illinois agrees that this power is appropriate for graduate schools. If so, there is no justification for limiting opportunities for women in undergraduate education. I doubt whether we have to tell this House that funds have been stopped in accordance with powers already granted the Federal Government under that act. This is no new precedent. It is simply an extension of an existing policy not to fund programs with taxpayers' funds which deny any individual equal protection of the laws. Any college or university which has an undergraduate admission policy which discriminates against women applicants, which requires by policy that they be higher qualified, which admits men students of lower qualification than women applicants because of any arbitrary preferential quota system is free to do so under our bill but such institutions should not be asking the taxpayers of this country to pay for this kind of discrimination. Millions of women pay taxes into the Federal treasury and we collectively resent that these funds should be used for the support of institutions to which we are denied equal access.

We do not advocate quotas and certainly we do not insist upon an even split of all college undergraduate enrollments. But just as we insist that schools be color-blind, we must insist also that they be sex-blind as well. Why ask whether Leslie Jones is a boy or girl? Why not consider only the overall qualifications and potential for success as a student, and admit or not admit solely on that basis. This is all that the provision of the bill requires—fairness and impartiality. It is ludicrous to even ask whether the applicant is male or female. If we really believe in equality, we must begin to insist that our institutions of higher learning practice it or not come to the Federal Government for financial support.

Institutions which are either substantially all male, or all female are not affected by the bill. Since they do not hold themselves out as coeducational, and the applicants select them because they are exclusively of one sex these institutions are exempted.

What we are opposed to are those institutions which hold themselves out to be coeducational, and yet by policy determinations, carefully and usually secretly limit the numbers of women who may enroll. This nullifies the concept of equality of opportunity, and deprecates the worth of a person solely on the basis of sex.

I was astounded to read the letter inserted in the November 1, 1971, CONGRESSIONAL RECORD from Charles U. Daly of Harvard University by which he would have you believe that sex discrimination is the right of the institution because it is a matter concerning educational policy. He also suggests that having a nondiscriminatory policy would impair their financial condition because men alumni contribute more generously than women alumnae. It is appalling to be asked to make national civil rights decisions upon such extraneous matters. To do so would be to say that money is more important to Harvard University than its social responsibility to support equality of opportunity.

Further, Mr. Daly raises the specter of women flooding "traditional" female fields such as the humanities and social sciences and causing under-utilization of Harvard's science faculties. This is a false issue since admissions could obviously be based on the department sought. Even if 90 percent of those admitted to science departments were men, there could be no complaint as long as those women who did apply were considered on an equal basis with men. We are not trying to tell the schools who must be in what department, or how many, but only that those who apply must have equal opportunity for admission to the department they seek.

So, let us not be distracted by the archaic "role-playing" of our classical universities. Let us not be fooled by silly arguments like gift-giving or reduction in academic standards, or other ambiguities. All this relates to, is whether we shall have real equality in this Nation. I would remind my colleagues that this vote will be seen by women all across the United States as a true test of our commitment to this cause.

Your vote on the equal rights amendment, which passed with little opposition, will not distract the women, and I for one shall do my very best to bring the vote on this matter to the attention of the women who are so extremely concerned over this issue of education. When my own daughter applied 2 years ago to Stanford University, she was turned down even though the University acknowledged she was abundantly qualified. The University told her in her rejection letter that its quota system permitted only 40 percent of the admissions for women, no matter what their qualifications. I say this is wrong and the women of this country also declare it is wrong. I ask your support for Congresswoman GREEN's sex discrimination provisions as approved by our committee.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have served on this committee, and have worked on this particular bill, and have been very much in support of the leadership of the gentlewoman from Oregon Mrs. GREEN). I have supported her in the areas of institutional aid and other parts of this bill. However, on this particular section I would like to ask all of you to give very serious consideration to what is involved in this sex amendment, and I would like to take the opportunity of reading from a letter from the president of Dartmouth College—I am not a graduate of Dartmouth, it happens that I was graduated from Colgate University. Nevertheless, I quote from the president of Dartmouth, as he sets out very clearly some of the real problems, and I would like to read them to you:

> Dartmouth would welcome a ban on sex discrimination in graduate school admissions, and in the employment, pay, and promotion of faculty and administrative employees. In both areas, the denial of equal treatment for women has an immediate detrimental effect on their professional careers. It is personally frustrating to women, and it deprives the country of their skills and productivity.
>
> However, the House provision, by encompassing undergraduate admissions, is in my opinion an unwise extension of Federal control. I offer the following reasons for this view:
>
> Unlike the situation which prevailed until the mid-1960's with regard to black students, there are excellent opportunities available to women in undergraduate education. In 1970, more than 41% of total college enrollment in America was female. In the Eastern United States, there are superb all-female colleges, as well as outstanding coeducational institutions.
>
> One of the strengths of higher education in this country is its diversity. This is particularly important to students and their families. Some students do best in an environment of their own sex; somewhere students of their own sex are a distinct majority of the college population, others in an equally balanced student body. Many university presidents can give you vivid examples of the way in which students perform differently in different social environments.
>
> Many formerly single-sex schools are now changing to coeducation. For a number of these schools, it is extremely important that they be free to experiment with varying ratios of men and women on the campus. Although the House bill gives them seven years in which to establish a practice of open admissions, financial considerations may make that timetable impossible. And, as I have pointed out above, it may well be that a particular ratio of men to women is more suitable to the students in a given institution than an equal mix. Some schools, seeing that they are destined to lose control of their admissions policies at the end of the seven-year period, will doubtless elect to remain single-sex (or will accept a percentage of the other sex not exceeding 10%).

I think what we are looking at here is the problem of mandating schools either to get fully into the so-called equal rights coeducational opportunities or to prevent schools from moving into it at all. There is no opportunity in this bill for compromise.

I would urge that we give the undergraduate college admission officers an opportunity to control their own college operations as to admission. The graduate level is completely different.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. ERLENBORN. Let me make this one additional point, and that is if there were a big problem as to admissions for women to these institutions, we might have a different situation. But listen to these figures.

In 1945 almost 57 percent of high school graduates were female; with 28 percent being admitted to colleges.

In 1970 the number of women had dropped, or rather the percentage had dropped to just over 50 percent who were graduating from high school whereas the number being admitted to colleges had increased to 44.7 percent.

So that while the percentage of women graduating from high school has dropped, the percentage of women admitted to colleges has increased. Now some of them go to institutions that are not 50–50 and I do not think there is anything wrong with that.

Mr. PEYSER. I thank the gentleman.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. KYL. Mr. Chairman, I sought an answer to this yesterday and I will try to be extremely brief.

Under the bill, as written, assume that you are the college president in a small town and there is little housing off campus. You have dormitories for men and women. You are receiving your admissions or approving admissions and you have five places in a dormitory which is a men's dormitory. You do not want to mix men and women in the dormitory. Do you reduce admissions under the circumstances leaving this room space open? Or if you admit men to fill the available rooms, are you then in violation of section X of the pending bill?

Mr. PEYSER. I am afraid the answer to that question would be—we can begin using them.

In most colleges today that problem is not really valid and would not be a really valid reason because this is what is happening—the housing is being divided.

Mrs. SULLIVAN. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment. I believe people—men and women—should be recognized on their ability, not their sex. Title X prohibits discrimination against women in institutions of higher education. In consideration of that prohibition, two things must be kept in mind. First, discrimination now exists in such institutions and demonstrably denies equal opportunity to women to their personal loss and the loss of the Nation. Second, a prohibition of discrimination will not constitute an invasion of the autonomy of any institution.

Every study ever made of the subject confirms what all of us know from our own observation. Men get college teaching appointments more readily than do women. Men get higher pay, get promotions faster, obtain tenure more easily and, if people have to be let go, the men are kept on and women are dismissed.

Women now earn 40 percent of the bachelor degrees awarded but their degrees do not provide them with the same access to careers that is available to men. The discrimination against women exists inside and outside the academic world. In the business world, men right out of college are recruited for executive training while women of the same qualifications and capabilities are offered secretarial jobs. In the academic world, women's experiences are comparable. In recent years 30 percent of master's degrees and 12 percent of the doctorates were awarded to women. A survey in 1966 indicated that there were but 3,149 women holding full professorships at a median salary of $11,649. At the same time, 32,873 full professorships were held by men at a median salary of $12,768.

Only 9 percent of the women who embark on college teaching careers attain the rank of full professors. Women reach the rank of department chairman at the incredibly low level of less than 1 percent.

If the picture for women in the institutions of higher education across the country is bad, the situation in our most prestigious schools is frequently even worse. Testimony given in hearings before the Special Subcommittee on Education last year indicated that women comprise 22 percent of the graduate students in the graduate school of arts and sciences at Harvard University but of the 411 tenured professors at that same graduate school, not one is a woman. State supported universities frequently do not do much better. At the University of Connecticut 33 percent of the instructors are women, but only 4.8 percent are full professors. At the University of Massachusetts there are 65 women on the faculty but only two have tenure.

Even in academic subject areas where women would be expected to be found in substantial numbers, they are not well represented. Out of 105 professors in the school of education at the University of Michigan, only six are women. At the same university out of 58 professors in social work, only 12 are women. In library science out of 14 professors, only three are women.

Even when women are hired, they frequently remain at the bottom of the academic hierarchy. The higher the rank the lower the percentage of women. In a typical study of 188 departments of sociology, Dr. Alice Rosi of Goucher College found that women accounted for 30 percent of the doctoral candidates; 27 percent of the full-time instructors; 14 percent of the assistant professors; 9 percent of the associate professors; 4 percent of the full professors; and 1 percent of the departmental chairmen.

The situation in both law schools and medical schools is comparable. In 1969 women comprised only 6.9 percent of law school students. In 1966 a study revealed that of 2,335 law school teachers, only 51 are women. In the medical profession only 9 percent of the doctors are women. A proportion which compares unfavorably with the 24 percent in England and the 65 percent in Russia.

Career discrimination begins in undergraduate schools. Quotas should not be imposed. Admissions should be on the basis of ability. Women should have equal opportunity to start their careers on a sound basis.

Granting that discrimination against women in the academic world is real and that it forces a loss of talent that the nation cannot afford, I believe that it is appropriate that the Federal Government undertake to prohibit this discrimination. I believe it is right and proper that our government intervene in a situation in which discrimination is demonstrable.

The prohibition will not constitute an invasion of the autonomy of individual institutions. There is no interference with the university in any management decision regarding selection of courses or course content. There is no interference with the university in regard to the setting of competence standards for selection and retention of faculty. There is no interference with the university in regard to its ability to set standards of admission. There is instead a simple prohibition of discrimination against women. That prohibition is both necessary and consistent with the preservation of the highly important right of institutions to make decisions controlling their educational mission.

In closing I would like to call Mr. ERLENBORN'S attention to a statement on this issue of discrimination which our President made recently.

Neither the President nor the Congress nor the conscience of the nation can permit money which comes from all the people to be used in a way which discriminates against some of the people.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Illinois. With 12 colleges and universities in my district, I am acutely aware of the devastating effect that title X, as presently constituted, would have on their character and operation.

This provision has been opposed by numerous educational institutions throughout the country. Their administrations have rightly pointed out that one of the strengths of American higher education is its diversity. Some students do best in an environment of their own sex. Others do best in a setting where their own sex constitutes a distinct majority of the college population. Still others fulfill their highest capabilities in an equally balanced student body.

The passage of this provision could seriously hamper the efforts of single-sex schools which are now in the process of changing to coeducation. for a number of these schools, it is more important that they be allowed to experiment with varying ratios of men and women on their campuses.

Although title 10 gives these institutions 7 years to establish a practice of open admissions, financial considerations may make this timetable impossible. Moreover, realizing that they are destined to lose control of their admissions policies at the end of the 7-year period, some schools may elect to remain single-sex and thus defeat a main intent of title X.

Consider, too, the plight facing our Nation's small colleges under this provision. As an example, Williams College in my own district has, until recently, been an all-male institution. It has now begun to accept women, but in a limited number so as to keep the total population of the school low enough to retain the advantages of a small school.

With passage of this provision, the school would be confronted with three options: First, it could keep the number of men at the present level and admit about the same number of women. This would double the size of the college, resulting in the loss of the advantages of a small school. Second, it could keep the total population of the school down by making a 50 percent cut in the number of male students admitted. Third, it could give up all Federal Aid which would lead to tuition increases that could hurt many students.

Any of these alternatives would seriously harm the character and tradition of Williams College and other institutions in similar situations.

To summarize, I contend that, far from prohibiting discrimination on the basis of sex, title X reduces the number of options available to men and women. Attempts to end discrimination should result in the opening of new opportunities for individuals, not the closing of existing paths of diversity.

Undergraduate admissions policies of institutions of higher education should be exempt from title X. I therefore urge the passage of this amendment.

I should like to read a message from the president of Amherst College which is in my district. I might say, Mr. Chairman and Members of the House, that once I was talking with former Senator Douglas, who had taught at Amherst College, and he said:

You must represent one of the most highly intellectual districts in the United States.

And I believe that. We have 12 of the finest colleges and universities in the world in my district. Let me read from two telegrams.

John William Ward, president of Amherst College, said:

Private colleges feel strongly that those provisions of Title X of H.R. 7248 which pertain to undergraduate admission are unworkable and unwise. I join with other spokesmen for such institutions in strongly urging support of Representative Erlenborn's opposition to the present provisions of Title X with respect to undergraduate admission.

I have also a message from Joseph A. Kershaw, provost of Williams College. He says:

I understood Congressman Erlenborn will try to amend the Higher Education Bill to confine the non-sex-discrimination admissions provision to graduate student admissions. Hope you will support this amendment. Present proposed provisions in the bill would be extremely difficult for us to implement.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(By unanimous consent, Mr. CONTE was permitted to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, if the gentleman will yield, is that the same Douglas who has been writing articles for Playboy or a similar publication?

Mr. CONTE. I do not know, but I know he was a very fine U.S. Senator, and I know we have some of the finest institutions in the country in my First Congressional District.

Mrs. GRIFFITHS. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Mr. Chairman, I oppose this amendment, and I would like to point out that discrimination against women in education is the oldest discrimination in our Nation. Originally no women were admitted to schools except those schools that were finally built for women only.

The gentlemen who proposed the amendment has placed in the RECORD some letters from schools as to why they oppose the amendment. I would like to submit that all of us, I presume, are a bit provincial in the way we look at things, but the most bigoted, the most provincial group of people in the country in my judgment are the men in the universities who run the institutions.

I would like to give Members an example from that illustrious university, Harvard. The letter from Harvard says:

The critical problems for Harvard are primarily financial and educational.

Then they lay it right on the line. What they are looking for is money. And after pointing out the problems of building additional dormitories possibly, none of which would be necessary, they then say:

In the longer run, there may be even more serious risk of substantially impairing the level of alumni support to the University. The available evidence seems to suggest that alumni support their university to a degree far in excess of alumnae. For example, Harvard alumni contribute to annual giving at a per capita rate over four times that of Radcliffe graduates, and large disparities are also evident at other private universities.

I would like to ask Members, is Harvard now admitting that one of the hidden criteria for admission to Harvard through the years more than 300 of them to be exact—has been: Will you as a graduate contribute to Harvard University?

I think that is ridiculous on the face of it. Surely they did not check to see if the Irish had jobs good enough to contribute to Harvard before they admitted the first Irishman. Surely they did not look to see what other groups did—or maybe it does explain why they did not permit Negroes to enter for such a long time. But I do not believe this. I believe this is a criterion which has been just established, and it has been established only in the case of admission of women. We cannot admit women because they might not contribute.

I think Harvard, having some fairly good mathematicians, should go back and look again. If a Radcliffe graduate has been giving 25 percent as much as a Harvard graduate, I would suggest they check the percentage of her income as opposed to the percentage of his, and they will find that she is giving a much higher percentage of her income than a man is giving of his income.

I urge Members to look through the provincialism of all the schools. Women today must support their families. If they are to support their families, they must have education. If they are to be admitted to the best graduate schools, they must have been admitted to the best undergraduate schools on exactly the same criteria as men. I urge you to oppose the amendment.

Mr. WYMAN. Mr. Chairman, I rise in support of this amendment. I do so largely for reasons outlined by the president of Dartmouth College in my State. I quote from a recent letter from President Kemeny dated October 27, 1971:

Congress ought not to use Federal support which amounts to only a small fraction of the University's revenues for undergraduate education—as the lever by which to force extraordinary changes in operations of private institutions where there is no compelling constitutional or social need to do so.

I have listened with interest to some of the remarks that have been made here urging that Mr. ERLENBORN's amendment is against womankind. It is no such thing.

All the pending amendment does is to change one small section of title X, to provide that its compulsion shall not apply to the undergraduate bodies of our private educational institutions.

Mr. Chairman, what business does the Congress of the United States have telling private institutions how they shall run their undergraduate affairs? What business is it of ours to take money from the people of this country in taxes and then tell private educational institutions they are not going to have any unless they are coed? Title X of this bill directs departments and agencies to which these taxes are appropriated not to give them to these private institutions unless they are open to women across the board. This unreasonably invades the policy prerogatives of these institutions. It is unsound.

The 90 to 10 formula is in the report, of course. It does not appear in title X. But the limiting scope of the amendment before us today merely exempts undergraduates. It will do nothing to discriminate against women in America or lessen their opportunities for educational advantage.

As the gentleman from Illinois has pointed out, women in this country have increasingly taken advantage of educational opportunities. Harvard Law School has women students now. Dartmouth College has women students now. All over America this is gradually opening up. In my district the University of New Hampshire has a substantial number of women in its student body. But this is occuring without the carrot and stick approach of title X. It seems to me it is a misuse of Federal funds, Mr. Chairman, to authorize such coercion for that is precisely what it is to demand that we interfere with the internal operations of privately run educational institutions by withholding Federal funds unless coed.

I certainly hope in its wisdom this Congress will reject the proposal of title X to apply this across the board and adopt the pending amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

For clarification, the amendment would affect only undergraduate admissions. All the other rights of undergraduate schools covered by this would continue to be protected.

In addition, I would point out that the New York Times and the Washington Post both have had editorials supporting the concept embodied in this amendment.

In addition, we have communications from Bowdoin College, Maine; Bryn Mawr College, Pa.; Columbia University, N.Y.; Dartmouth College, N.H.; Harvard University, Mass.; Mercer University, Ga.; Princeton University, N.J.; Rockhurst College, Mo.; Smith College, Mass.; and Yale University, Conn. Other institutions also support it.

Mr. WYMAN. I thank the gentleman.

As the gentleman points out, his amendment applies only to the admissions policy of these educational institutions. I submit to those here who have not yet made up their minds, what busi-

ness is it of ours to deny Federal funds in order to coerce private institutions as to their admission policy on undergraduates? The application of title X to undergraduate admissions is wrong and it will be corrected by adopting the pending amendment.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Speaker, I appreciate the gentleman from New Hampshire (Mr. WYMAN) yielding.

I wholeheartedly agree with the views expressed so well by Mr. WYMAN and others this afternoon in support of this amendment. I was particularly pleased that Mr. WYMAN quoted from the letter written by Dr. John G. Kemeny, president of Dartmouth College, and can only say that I concur with the points made so well by Dr. Kemeny.

A particularly telling point, I felt, was that a major strength of America's university system is the great diversity of approaches and methods—private and public, sectarian and nonsectarian, large and small, coeducational and single sex—the diversity is great. It is this diversity that has helped produce the greatness of our universities. It would be regrettable to do away with any aspect of that diversity unless there is a compelling national interest in so doing. The antidiscrimination provision before us is not necessitated by any such compelling national interest.

It is worthy of note that this provision which meddles in the internal operation of our colleges and universities comes in the same bill that is providing billions of dollars for the higher educational institutions. I cannot help but remember some years ago when we were debating whether to establish Federal programs to aid education, a major concern of many of us was whether the Federal aid would be accompanied by Federal interference. Today the chickens are coming home to roost.

I intend to vote for the Erlenborn amendment to eliminate the provision prohibiting discrimination according to sex in undergraduate admissions. I am very pleased that the distinguished gentleman from Illinois is winning well deserved recognition nationally for his steadfast devotion to excellence and reason in developing educational programs.

Mr. MONAGAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as an Irishman who went to Harvard, I can assure the gentlewoman from Michigan that there was no prior commitment in my case in support of the Harvard Alumni Fund. In fact, I am afraid that the gentlewoman could not use my record of contributions as any argument in favor of the proposition that she put forth.

I regret that the gentlewoman saw fit to cast unmerited aspersions upon the Harvard record for fairness to applicants for admission. Too many poor but able students have passed through her halls to permit the production of any evidence to support a charge of discrimination and Harvard has led the academic field in equality of treatment of applicants and admission on the basis of merit.

However, I do think that this question should be treated not solely as a matter of discrimination but also as a question of what the effect of this provision would be upon some institutions that might wholeheartedly be examining into the question of changing the methods that have prevailed over the years and who would be inhibited from going forward with such a change because of the provisions of this legislation.

The gentleman from New York (Mr. PEYSER) pointed out several other considerations that I think are extremely important. One is, the fact that more than 41 percent of the undergraduates now enrolled in American colleges are women. The attempt to equate this with racial discrimination is really not legitimate.

Also I think it should be emphasized that in the field of education a broad range of possible arrangements may be healthy and desirable. There is no one percentage that applies everywhere and in all cases. I am talking about flexibility in the types of arrangements of proportions of the sexes that would be admitted in particular colleges.

Additionally I believe it should be emphasized, as the gentleman from Massachusetts (Mr. CONTE) has said, that an institution which is of one sex at the present time because of the limitation of 7 years that is contained in the bill would be prevented from experimenting and from going from one proportion to another gradually over a period of years. It might and very possibly would, as a result of this confining requirement and restriction, be compelled to go all the way or on the other hand to remain an institution of one sex.

I do not think the question of alumni contributions is one that should be dismissed out of hand. After all, we are talking in many of these cases of one-sex institutions and of colleges which are primarily private institutions from the point of view of the source of their financial resources. Therefore, any abrupt and substantial change in the character of the student body and, as a result, in the character of the institution could and very likely would have a depressing effect upon the volume of the contributions. It would be ironic to set up a system of Federal contributions and at the same time take away an equal amount of private contributions to a particular institution.

Finally, the criteria for judging the discrimination which is attacked are not adequately spelled out. Some of these institutions rely on other standards, rather subjective perhaps in certain cases, than the college entrance examinations or other similar tests. These systems of selection have worked out effectively and have worked out fairly and worked out without discrimination in the past in other areas, and it would be most unfortunate to substitute a mechanical objective test for these other types of tests that have met the standards of excellence over the years.

For these reasons, Mr. Chairman, I support this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MONAGAN was allowed to proceed for 1 additional minute.)

Mr. MONAGAN. Mr. Chairman, I yield to the gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. I thank the gentleman for yielding.

Mr. Chairman, I wish to associate myself with the remarks of the gentleman in the well.

Mr. Chairman, I rise in strong support of the amendment of Mr. ERLENBORN, the gentleman from Illinois.

Title X of this bill, entitled "Prohibition of Sex Discrimination" reads, in its effective provisions, as follows:

> Section 1001. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that this subsection shall not apply—
>
> 1. in the case of an educational institution in which substantially all the students are of the same sex,
>
> 2. for seven years from the date an educational institutions begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or
>
> 3. to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization.

Mr. ERLENBORN's amendment would exempt out of this title all undergraduate schools and would leave the prohibition against sex discrimination to apply to graduate education and faculty employment and salaries.

If the proposed law stays in its present form, without the Erlenborn amendment, the admissions policies of private colleges and universities will be regimented beyond reason in the name of antidiscrimination, even though 41 percent of the undergraduates in America today are women. It strikes at the university which has been one of the strengths of higher education in America and which has offered students a wide range of social environments from which they could choose the kind best suited to their aptitudes and needs.

Mr. Chairman, as the report states on page 251:

> Single-sex institutions of higher learning are rapidly decreasing in the United States. In the past decade, the number of single-sex institutions has dropped from 445 to 347, representing only about 3 percent of the total student enrollment in colleges today. At the same time, the number of coeducational colleges is increasing. During the last decade, coeducational institutions rose from 1,533 to 2,226. Single-sex institutions have a long history in education, and legitimate controversy continues between educators over the relative merits of single-sex versus coeducational institutions.

Mr. Chairman, I had the good fortune to graduate from Dartmouth College, about which Daniel Webster, from 1812 to 1816 a distinguished Member of this body from New Hampshire, said in the

Dartmouth College case before the Supreme Court of the United States:

It is a small college, but there are those who love it.

Dartmouth College, now in its third century of service to this Nation, has been a college for men throughout its history and thus represents the small- or medium-sized private colleges and universities which have been and are either men's or women's colleges. We have seen that there are now about 347 of these colleges left.

Let me use Dartmouth College to illustrate to you how title X of this bill, without the Erlenborn amendment, will be counterproductive—how it will encourage what it purports to condemn: Discrimination on grounds of sex. The same considerations will apply to all of the other single-sex colleges and universities, whether they be women's colleges or men's colleges, and there are probably an equal number of both.

The trustees of Dartmouth College have been studying for 2 or 3 years, after two centuries of male education, the possibilities and probabilities of enriching the quality of Dartmouth education by admitting young ladies in substantial numbers to a total of about one-third of the undergraduate student body. In order not to cut down the present student body, they are also considering a 12-month operation of the college, with a staggered four-semester system. This will allow the proposed female increase in the student body without requiring substantial investment in new dormitories, classrooms, and other facilities.

The decision will probably be made within the next 2 months. If title X of this bill is adopted without the Erlenborn amendment, I can reasonably predict that the trustees will decide not to go ahead with coeducation but to remain substantially a college for men. I think this would be too bad. It is an example of how title X as it is now written will be counterproductive of the ends it seeks to promote in regard to the elimination of discrimnation on the grounds of sex.

Mr. Chairman, let me urge, in the name of the great diversity of American higher education, that all of my colleagues support this Erlenborn amendment to title X.

Mr. MONAGAN. I thank the gentleman from New York for his contribution.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that, perhaps, some of these liberal establishments which profess to be centers of excellence in the field of education, or some who think they are, are not willing to accept for themselves that which they would require of others. This might as well apply to a couple of newspapers that have been mentioned here today as supporting this amendment, the Washington Post and the New York Times.

I would like to try to clear the air with some questions, if I can, as to what this amendment really does, and then I am going to make my decision after I get answers to these questions.

I would like to ask the gentlewoman from Oregon who is floor manager of the bill (Mrs. GREEN) if this title has anything to do with admission policies and if the answer is "yes," then I will ask some other questions.

Mrs. GREEN of Oregon. Mr. Chairman, if the gentleman will yield, the answer is "yes."

Mr. WAGGONNER. Does this title require what is at the present time an all-male school of higher education at the undergraduate level the admission of females?

Mrs. GREEN of Oregon. It does not. If an institution is of all one sex or substantially of one sex, which is defined as 90 percent or more, it is exempt from the provisions of title X.

Mr. WAGGONNER. Then the gentlewoman is saying that conversely an all-female institution of higher education at the undergraduate level is not required to alter its admission policies to admit members of the male sex?

Mrs. GREEN of Oregon. The gentleman is correct.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. Not for the moment. Let me pursue these questions a little bit further.

Does this title say anything more than if an institution is already coeducational and the ratio of male to female in either direction exceeds 10 percent, and if such institution is participating and making available to those students who are enrolled there, male and female, and if a program is financed in part or in whole by a Federal program that in administering this particular program they cannot discriminate because of sex?

Mrs. GREEN of Oregon. That is correct. If they are 89 percent or less of one sex, then the discrimination clause would go into effect. However, there is also a transition period of 7 years from the time they began to move from one sex status to coeducational.

Mr. WAGGONNER. Let me clarify a little bit better the point I am trying to make and that is this: This applies, apparently, only to those programs wherein the Federal Government is in part or in whole financing a program or an activity?

Mrs. GREEN of Oregon. With Federal funds.

Mr. WAGGONNER. That is what I mean, Federal funds.

Mrs. GREEN of Oregon. It is really the same as the Civil Rights Act in terms of race.

Mr. WAGGONNER. That is the point I am coming to now.

The Civil Rights Act of 1964 says that you cannot discriminate because of race, color, creed, among other factors.

I have about come to the conclusion that we are about in the position we were when we were considering that particular proposal and amended it to say that you could not discriminate because of sex, and I have just about come to the practical conclusion that about the only people who can be discriminated against, if we do not accept this title, are white women.

Would the gentlewoman care to comment on that?

Mrs. GREEN of Oregon. It is true that the law of the country is that in terms of the admissions policy of any college, whether it has Federal funds or not, it cannot discriminate because of race, creed or national origin. I would let the black women speak for themselves, but a black woman does have some protection on the ground of discrimination on the basis of race and can file a charge on that basis.

A white woman has absolutely no redress at all.

For example, I received a doctorate degree from Yale University, but if I had ever applied for admission to undergraduate college at Yale University they would not have admitted me because I am a woman. It is that simple.

Mr. WAGGONNER. But we are still saying under this title that if you do not have a coeducational institution you do not have to alter your admission policy?

Mrs. GREEN of Oregon. That is correct, if it is all one sex at this time they are exempt from all provisions. They are not exempt, however, from the provision that is now the law on admission policy that there can be no discrimination on account of race, creed, color or national origin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, let me proceed along the line of the gentleman from Louisiana, and let me ask the gentlewoman from Oregon (Mrs. GREEN) for clarification on what I thought I heard.

In title X the gentleman from Louisiana asked relating to a program on activities receiving Federal financial assistance, and under the "program on activity" one could not discriminate. That is not to be read, am I correct, that it is limited in terms of its application, that is, title X, to only programs that are federally financed? For example, are we saying that if in the English department they receive no funds from the Federal Government that therefore that program is exempt?

Mrs. GREEN of Oregon. If the gentleman will yield, the answer is in the affirmative. Enforcement is limited to each entity or institution and to each program and activity. Discrimination would cut off all program funds within an institution.

Mr. STEIGER of Wisconsin. So that the effect of title X is to, in effect, go across the board in terms of the cutting off of funds to an institution that would discriminate, is that correct?

Mrs. GREEN of Oregon. The purpose of title X is to end discrimination in all institutions of higher education, yes, across the board, but we do have the three exemptions to which I referred.

Mr. STEIGER of Wisconsin. Mr. Chairman, I must admit that I cannot have anything but mixed feelings about a debate on discrimination. The hearings before the committee are full of testimony clearly indicating discrimination by institutions of higher education in graduate enrollment, living practices and promotions.

I have three comments on the whole question of the amendment now before us. One is that I find myself somewhat surprised that there is so much power granted to HEW under title X when in fact the gentlewoman from Oregon has been a most strong opponent of granting additional powers to HEW. Perhaps in this field she feels that there is some greater justification for granting this much power.

Secondly, under the bill, under the titles which we have gone over before, we have in effect allowed the local financial assistance officers to have a rather broad sweep of powers in their right to pick and choose those who should receive aid which could work against low-income students, but in this one we now are going to say that it is the Federal policy that you cannot discriminate because of sex. This dichotomy confuses me on one hand we grant latitude and autonomy while on the other limiting autonomy.

And thirdly, Mr. Chairman, may I say in all honesty that I fail to be moved by the argument that because it is public policy under the Constitution that you may not discriminate because of race, creed or national original that now suddenly we find ourselves saying we will make this public policy that you may receive no Federal funds if you do not follow the open admissions policy advocated here by some, not as a right but under the law.

I think the Erlenborn amendment would help to make Title X a truly effective piece of Federal legislation, and it is for that reason that I intend to support the amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentlewoman, of course.

Mrs. GREEN of Oregon. I have heard the Secretary quoted several times during debate on the Higher Education Act. Secretary Richardson, quoting the President of the United States, said on October 27, 1971, before the Senate committee:

> Neither the President nor the Congress nor the conscience of the Nation can permit money which comes from all the people to be used in a way which discriminates against some of the people.

Mr. STEIGER of Wisconsin. Then may I say to the gentlewoman from Oregon, if you are going to follow that particular viewpoint, then let us admit that there is discrimination in title X, as written, because it excludes certain schools or institutions.

If we are going to have a rule, let us take them all out and not provide any distinction.

Mrs. GREEN of Oregon. I would be in favor of that and if at this time the gentleman wants to offer that kind of amendment, I would vote for it.

Mr. STEIGER of Wisconsin. But you are using the words of Secretary Richardson about discrimination.

Mrs. GREEN of Oregon. No, I am trying to make it as easy as possible for institutions of higher education to go through this transition period.

It would be my judgment that you would probably have a small percentage of people really in single sex institutions, in terms of the 7½ million. So I would try to make this transition period as easy as we can.

But, if I were just considering myself, I would say "yes"—I would want no form of discrimination against women any more than against any person because of race, color, creed or national origin.

Mr. BINGHAM. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I, for one, do not find this an easy question at all. I am troubled by some aspects of the Erlenborn amendment. Frankly, I am troubled also by some aspects of the committee bill.

I would like to begin by asking the able gentlewoman from Oregon a further question for purposes of clarification of the meaning of the words that would be stricken by the Erlenborn amendment which read, "in the case of an educational institution in which substantially all the students are of the same sex."

Now do I understand those words "educational institution" would apply to an all-girl undergraduate college? For example, take the case of Bryn Mawr, which has an all-girl undergraduate college but which has men in substantial numbers in its graduate schools. Would Bryn Mawr's undergraduate college be excluded under the committee's exclusion?

Mrs. GREEN of Oregon. I understand there is going to be an amendment offered on this point and I would accept it.

The graduate school has been accepting students of both sexes and the undergraduate school has not. The undergraduate school wants the 7-year transition period which should be from the time of enactment to the time the school begins that transition period.

But at the present time, any institution of higher education which is just for one sex would be exempt from the provisions.

Mr. BINGHAM. My question is, do you consider an undergraduate college as an educational institution for this purpose even though overall the university may be coeducational?

Mrs. GREEN of Oregon. No, in my judgment if you want to separate the graduate and undergraduate, an amendment would have to be offered, and I just said I would accept it. The answer to your question is—no. They would be one institution or university and we would not separate the graduate from the undergraduate in defining "institution."

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman?

Mr. DELLENBACK. The gentleman in the well has pointed out a very sound objection to this committee bill as it exists. I propose at the proper time to introduce an amendment which would make a type of distinction possible so that if in a single university there are separate components in the different admission policies, they can and will be treated differently.

Mr. BINGHAM. I thank the gentleman. I think that would certainly help.

However, I am still disturbed by the distinctions made in the bill between institutions which are considered to be all male or all female and those which are not.

We are confronted here with the proposition where an institution which has 9 percent females is not going to be bothered by this bill. But an institution with 11 percent females is going to be covered. That seems to me to be a very questionable distinction.

You will have similar odd situations where you have paired institutions, that is where you have an undergraduate college for men that is close, physically and geographically, to a college for women.

They may exchange facilities; they may exchange programs; but they are not going to be covered by this legislation. Whereas if these two paired institutions happened somewhere along the line to have come under one roof, they are going to be covered.

I think it is unfair to compare this title of the bill with the equal rights amendment. I seriously doubt whether this title in its present form complies with the equal rights amendment that we passed so overwhelmingly the other day. It certainly cannot be compared with the civil rights legislation which we have adopted.

We have not said—perish the thought—we have never said that an institution can be all black, or that, if it is all white, it does not have to accept blacks. Here we are saying just that, so far as discrimination on the basis of sex is concerned.

It is true that the distinction Mr. ERLENBORN seeks to draw between undergraduate schools and graduate schools may also be criticized, but at least it is clear and I do not think it is arbitrary. So far as the graduate schools are concerned, there is every reason to believe that we can move toward effective coeducation, and the difficulties that may arise in the case of undergraduate schools will not arise.

However, as I am strongly in favor of ending discrimination against women in all fields, including education, and in view of the fact that the Erlenborn amendment is so sweeping in its effect that it would substantially defeat the purpose of the whole title, I shall vote against the amendment.

Mrs. ABZUG. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it seems that every time I get up here to discuss the subject of equal rights for women somebody has just received some instruction from his wife on how to vote. I must report again that I have not received any such instruction from my husband, which is a fact that merely sharpens the subject matter of this debate. The question before us, namely the need to eliminate discrimination against women in higher education is a very serious one, and I feel a little saddened that those who have spoken have made clear that they want to continue this discrimination.

The reason I feel sad is that the discussion today reveals some very deep attitudes of discrimination, and I will tell you why. Those who have argued in support of Mr. ERLENBORN's amendment

have said, "What are you worried about? We are merely seeking to exempt undergraduate schools."

Well, merely seeking to exempt undergraduate schools from the ban on sex discrimination means that we are seeking to exempt the right of women to participate equally in the largest and the greatest number of higher educational facilities in this Nation. We all know that it is at the undergraduate level that people must enter in order to go onto higher graduate education. We also know that if we pass a bill only to eliminate discrimination in graduate schools, we reach few people indeed.

The other interesting thing that has happened here today is that we have had various statements and telegrams from colleges and universities or, rather, the heads of colleges and universities. We have Mr. ERLENBORN'S statement of what the American Association of Universities said, and so on. It is interesting because the very telegrams and the very chancellors and the very presidents who may have said to Mr. ERLENBORN, "We do not like the idea of having to provide for women in our colleges," because that would "establish an undesirable degree and kind" of Federal influence over these institutions, have also sent us telegrams to support the Higher Education Act of 1971. I received such a telegram from the president of Columbia University. At best this position is hypocritical. They will accept Federal involvement when it comes to getting financing, but they will not accept Federal involvement when it comes to meeting what is clearly the spirit of the law—the objective and the goal of this Nation—namely, the eradication of discrimination. And it is discrimination which inherently and aggressively exists in the institutions of higher learning of this country. At worst their position is purely self-serving, seeking as it does to maintain the discrimination they practice to keep women out of their schools. Of the 34 members of the AAU, most of whom did not actually sign the statement Mr. ERLENBORN previously inserted in the RECORD—as he admits today—16 of them are the subject of charges filed against them in Federal and State forums for discrimination against women. Another eight of them have been accused of discrimination by women's groups on the individual campuses.

Certainly we cannot expect that the men who head these institutions—and they are all men—will look favorably upon women, against whom they have discriminated, seeking admission to their institutions. Unbiased admissions policies would threaten the male power structures which presently control these institutions, and of which these men stand as the leaders, saying "we won't let you in."

Their fears are not unfounded. As women gain equal access to institutions of higher learning, they will also gain greater access to the other facets of the power structure of the country—political, social, and economic.

There is another interesting aspect of the AAU letter. Yesterday, I received a telegram from James M. Hester, the president of New York University, a member of the AAU listed on Mr. ERLENBORN's letter, which reads:

I strongly affirm my support of H.R. 7248. I oppose discrimination against women and support the intent of Title 10.

President Hester's telegram raises the question as to whether the remaining 33 members listed on the AAU letter were fully aware of the position the organization has taken. Clearly, Mr. Hester was not. I am also advised that the heads of the Universities of Wisconsin, Indiana, Michigan, and Michigan State have retracted their support from the AAU position.

A second organization, the Association of American Colleges, which represents a membership of 800 liberal arts colleges across the country, recently adopted a resolution by membership vote, condemning sex discrimination—a gesture which simultaneously recognizes the existence of discriminatory policies and supports the anti-sex discrimination provision of the committee's bill.

The argument which my colleague offers is that the Federal Government should not interfere in any way with the admissions policies of private colleges and universities. Need I remind him that this bill does not regulate all institutions of higher learning. It merely regulates those that accept Federal money. Surely the women taxpayers of this country have a fundamental right to insure that their tax dollars do not support institutions which discriminate against them. Surely the men in this country who believe in equal rights for all—women too are entitled to see to it that their tax dollars are not used to aid schools which discriminate against men.

The formative influence on young minds of societal expectations of women who go to college cannot be exaggerated. Young girls who seek to achieve educationally rather than to accept the deferential role and the submissive role that society had dictated for them are found by psychologists to fear that they will suffer social rejection should they succeed.

If one reads the hearings of this committee, and other related reports, it is inescapably clear that women are seriously discriminated against in college admissions. I call your attention especially to a study done by Dr. Patricia Graham of Barnard College in New York, which shows that 75 to 90 percent of the well-qualified high school students who do not go on to college in this country are women. I assure you that this is not because young women are less interested in furthering their education than young men.

Other evidence in the committee hearings show that women are forced to meet higher standards of admission than are men. At the University of North Carolina, for example, admission of women at the freshman level was "restricted to those who are especially well qualified," but no comparable restrictions applied to men.

In Virginia, according to a 1964 report, 21,000 women were turned down for college entrance—but not one male student was rejected.

Another study, published last year by the American Association of Junior Colleges, showed that in one city the lowest rate of college attendance among black and white students of both sexes was in the category of white women. Clearly there is a pattern of discrimination. It was recognized by the committee, by numerous witnesses and outside authorities, and it must be recognized by this distinguished body.

There is a rising demand in this country by women seeking equal opportunity in education and in pay and in aspirations and in recognition.

What has been most appalling in the discussion here today is the way in which many of the Members of this body are prepared to perpetuate this discrimination against women. There is no other explanation for the comments made by those who support the Erlenborn amendment. What else would be the reason to adopt a provision in title X to ban sex discrimination in graduate schools and not in undergraduate schools? Could it be that if women were permitted equal entry to the institutions of higher learning, that they would become the presidents of colleges or that they might replace somewhat, if only a little, the power structure now totally dominated by males with participation by women?

It seems to me that those of the Members who have voted for the equal rights amendment cannot possibly vote for the Erlenborn amendment. To do so would indicate that the Members merely gave lip service to give their constituents—51 percent of whom are women—the idea that they favor equal rights for women, when, in fact, as soon as they are faced with the first crucial practical step of effectuating equal rights for women, they seek to cut it down to nothing.

I urge all the men in this House to reject the Erlenborn amendment. I would say education for women is certainly as important as the equal opportunity for those from different racial backgrounds or different national backgrounds or different ethnic origins—to which the Members have readily agreed. Perhaps it is because they do not fear the power of the other groups—and feel that the power of the women is potentially greater and I think they should. I believe 1972 will help these Members understand why.

Mr. SCHERLE. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman for yielding.

I have one question which comes to my mind, which I think has an important bearing on the balance of what we do here, and certainly it will have a bearing on what I do.

The question is this, and I would like to ask it of the gentlewoman from Oregon. I am thinking of a specific example now of a school which has a coeducational operation. Throughout the years they have had a total ceiling on enrollment. They have had a ceiling on female enrollment and a ceiling on male enrollment. They are all on the same campus, but they have what is called a women's division and a men's division. For exam-

ple, they have a ceiling on total undergraduate enrollment which is 4,500, of which throughout the years they have admitted 3,000 men and 1,500 women, all undergraduates. Under the provision of this title, if a woman applied and a man applied, and this school with its ceiling overall of 4,500 had not been reached, but the 1,500 which has been their ceiling for women had been reached but they had only accepted 2,800 male students—which left them under their previous method of operation 200 vacancies for male students—would they be discriminating if they turned this young woman applicant down, not because of sex, but because they had reached their established and practiced ceiling throughout the years, and accepted the male because they still had 200 vacancies within their ceiling? Would this be discrimination under this act?

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman from Iowa yield?

Mr. SCHERLE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. This title X will not affect ceilings on institutional enrollments. It has nothing to do with how many students shall be admitted in total.

In terms of a quota, if a school is coeducational, as the gentleman suggested, and has a quota of 3,000 men and 1,500 women, and a woman is discriminated against on the basis of that quota, yes, the provisions of this title would affect the admission policy.

As I have said before, I oppose quotas, such as the Philadelphia plan. I believe it would be very wrong for us to establish a quota system in colleges or universities and so say, "Because you have admitted 3,000 men and 1,500 women you are immediately going to have to choose from among your applicants enough so that the group will be 50 percent men and 50 percent women." I would be adamantly opposed to that.

All that this title does is to ask that a woman be considered as a human being, that her qualifications, her high-school work and other qualifications be considered in the same fashion as those of a male applicant. If she qualifies, she should not be discriminated against on the basis of sex, just as we do not now discriminate on the basis of race.

I know that the gentleman from Louisiana realizes in many places they would like to establish a quota of X number of whites and blacks, and so forth. I believe that is wrong. It seems to me that individuals, whether they are white, black, yellow, brown, red, or whether they are male or female, ought to be considered on their individual merit and individual talent and whether or not they can do the work at that university.

Mr. WAGGONNER. Mr. Chairman, will the gentleman from Iowa yield?

Mr. SCHERLE. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. The net effect, then, would be to prohibit ceilings by sex if the ceiling had been reached for either sex before the other?

Mrs. GREEN of Oregon. The gentleman is correct.

Mr. WAGGONNER. I thank the gentlewoman.

Mrs. GREEN of Oregon. It would prohibit quotas now in effect or would prohibit the enactment of a quota system.

Mr. HUNGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems that discrimination is a problem of our time. Is it not somewhat exhilirating to realize there are still some acts in some places where one can go to jail for failing to distinguish between a man and a woman.

I should like to say a few words on behalf of Harvard. It has been mentioned with some criticism before. In fact, some of my gentler colleagues have so enumerated the sins of that institution, Harvard, I have wondered why any lady would want to go there, except as a missionary.

When we discuss the problems of the treatment of blacks, really they cannot be serious in the criticism of Harvard University on that score compared with any other university in the United States, or in Harvard's treatment of any other minority group. I would offer to say they were probably admitting blacks at Harvard University when they were property in some of the States. Harvard can and should take a good deal of criticism, but we ought not to strike low blows.

On the question of mathematics, if that is a serious problem, we want to be very certain—in fact, I believe most Harvard types would want to be certain—that we do not mistake the exact time the university started, which was not 200 but over 300 years ago. It was 1636 when Harvard started laying bricks. There were no Elis then.

I might point out that among the people who have patterned our national life, for good or ill, were John Kennedy and Robert Taft, so apparently some of the inspiration there has been useful.

The gentleman to whom this whole program, I suppose, will be turned over, Secretary Richardson, I feel has those same flaws and virtues. He attended Harvard.

So far as discrimination is concerned, if you have been up to Cambridge lately and looked around, I think you will realize that around Harvard Square these days it is hard to tell the women from the men, without a doctor's certificate.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the Members know, I was relatively active in support of the proposed equal rights constitutional amendment and I continue to support that, including legislation to implement it. Furthermore, I support the objective of this title to end sex discrimination in higher education.

The question I have is whether this title is not a backward step rather than, as the gentlewoman from New York (Mrs. ABZUG) has charged, an opportunity for us to indicate that we are prepared to implement the proposed constitutional amendment guaranteeing equal legal rights for men and women. The question I have is this: Does the definition of educational institution as contained in this title apply both to public and private institutions? The reason I ask that question is that there are a great many public colleges and other institutions of higher education that would be exempted from the provisions of this law and build in the kind of sex discrimination that should be eliminated from our public institutions.

In other words, in the course of our hearings before the House Judiciary Committee on the subject of equal rights for men and women that there are mining institutions and agricultural institutions, medical schools, engineering schools and other public institutions of higher education supported by public funds, which in fact discriminate against women insofar as their admissions policies are concerned. I think for us to exempt from the provisions of title X institutions that are practicing that kind of sex discrimination would be a backward step and would not be fulfilling the objectives of the equal rights amendment.

I feel that the difficulty we are experiencing here results from an invasion of the jurisdiction on the House Judiciary Committee, which has pending before it, may I say, legislation to fulfill the equal rights amendment and to amend the Federal laws in every case where it is necessary to achieve equality of rights for men and women. I am fearful that what we are doing here could be a step backward.

If the gentlewoman from Oregon will explain the difference that may exist with respect to private and public institutions, I would appreciate it.

I yield to the gentlewoman.

Mrs. GREEN of Oregon. I thank the gentleman for yielding.

First, it does apply to public and private institutions. Second, it is a step forward—not a step backward. I think every single women's group that I know of, would consider it a step forward.

In terms of the equal rights amendment, the equal rights amendment as I said earlier, goes much further. When the other body takes the affirmative action that this House was willing to take in establishing equal rights for men and women, it would supersede this.

Mr. McCLORY. If the gentlewoman will please explain how we are going forward when it says in title X that it shall not apply in the case of an educational institution in which substantially all of the students are the same sex, I would appreciate it. What about the agricultural, the mining, the engineering, and the medical institutions which are public institutions but which are going to be exempted from what I consider to be an area where discrimination between men and women should be ended.

Mrs. GREEN of Oregon. Will the gentleman yield further?

Mr. McCLORY. Yes. I yield.

Mrs. GREEN of Oregon. They are certainly exempt at the present time. They do not follow——

Mr. McCLORY. I disagree with that. As a matter of fact, the University of Virginia is under court order right now to end its discrimination against women. I feel that other public institutions also should be required to end their sex discrimination. However, if this title is

passed in this form, will it not build into the law the very exemption that we want to eradicate here?

Mrs. GREEN of Oregon. In my judgment, it will not.

The State of Virginia has a constitutional requirement which prohibits discrimination on the basis of sex, as at least two other States do, but there are varying degrees of statutory prohibition in other States. So, in my judgment, it is a real step forward in terms of ending another kind of discrimination that has pervaded our society for many years.

Mr. McCLORY. In my opinion, this title does not accurately set forth the purpose which it is intended to fulfill as it is presently written and composed. It requires a lot more study. I think it is something that should be considered by the Committee on the Judiciary in the form as introduced by my colleague, the gentleman from Illinois (Mr. MIKVA) or in some other improved form in order that we can end sex discrimination particularly in our public educational institutions as well as the private institutions where there is a denial of equality of legal rights.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I wonder if we might reach an agreement on a limitation of time.

Mr. Chairman, I ask unanimous consent that all debate on this amendment close within 8 minutes.

Mr. KOCH. Not to include my 5 minutes.

Mrs. GREEN of Oregon. Your 5 minutes would not be affected.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. Not including the 5 minutes of the gentleman from New York?

Mrs. GREEN of Oregon. No; it does include the time of the gentleman from New York.

Mr. GROSS. Mr. Chairman, I thought the gentleman's time was divided among those standing. I do not think that was the intention.

The CHAIRMAN pro tempore. The gentleman has been recognized for 5 minutes.

Mr. KOCH. Mr. Chairman, we are witnessing today the kind of debate which undoubtedly has taken place in this House since its inception; namely, how to hold back the sands of time. Every group in this country, from our black citizens to our young people and many others, have been told when they petition this Congress for redress of legitimate grievances that they must wait and be satisfied with dribs and drabs until ultimately full rights are given.

Today's women are being told by the supporters of the Erlenborn amendment, "You must wait. You must be patient. You must not complain because there is a denial of equal rights to you."

The women of this country have made it clear they will not accept the salami tactics being used by the Congress; that is to say, "rights, a slice at a time."

The committee bill itself is too limited in that it does not grant full rights but the proposed amendment has no redeeming features and is an outrageous attempt to totally hold back the clock. One's right to attend undergraduate and graduate institutions should be predicated on ability, not on sex. The amendment must be defeated.

The CHAIRMAN pro tempore. Under the time limitation the Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, when we considered the equal rights amendment for women before this House, which was passed overwhelmingly, we did not have any "but" clauses in it or equal rights "except" clauses in it.

I, personally, feel that if we are going to grant public funds to institutions and carry out the will of the House as professed at that time, we should not have a limitation as to sex in this act. In other words, both sexes should be treated the same so far as their right to attend college is concerned. I have been disturbed however, about the statements that if there is to be no discrimination based on sex then there can be no separate living facilities for the different sexes. I have talked with the gentlewoman from Oregon (Mrs. GREEN) and discussed with the gentlewoman an amendment which she says she would accept. The amendment simply would state that nothing contained herein shall preclude any educational institution from maintaining separate living facilities because of sex. So, with that understanding I feel that the amendment now under consideration should be opposed and I will offer the "living quarters" amendment at the proper time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, let me just very briefly remind the House what this amendment would do. At the present time title X would apply nondiscrimination to both graduate and undergraduate programs, but would allow a single sex program in primarily single-sex institutions to continue. It would, however, prohibit any new institution from being developed on a single-sex basis. If some institution decided it wanted to start as a girls' schools, or it wanted to start as a boys' school, we would say absolutely no, that is prohibited.

My amendment would allow the effects of nondiscrimination in this title to apply to faculty, to employees, and to admission practices in the graduate schools so that the entry to the professions would be protected, and it would not apply the provision against sex discrimination in the case of undergraduate admissions.

To do so I believe is an unwarranted intrusion by the Federal Government into the internal administration of these institutions. In the same bill where we are holding out the prospect of putting Federal funds in every institution of higher education so that every institution will then come under the terms of title X, we are then saying "but if you take this money or any other Federal funds we are then going to determine for you what your administration practice should be." And we do not do it legislatively, we do not even give any criteria for the Office of Education to follow. We say "under a plan."

Under a plan that the Office of Education may approve. And if you started this process 7 years ago, or more, right now you must comply or all Federal funds will be withdrawn. I think that is totally unwarranted. I hope my amendment will be adopted.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN) to close debate on this amendment.

Mrs. GREEN of Oregon. Mr. Chairman, it was just stated that if a new institution wanted to start out as a one sex institution that that would be prohibited. I beg to differ with my colleague. That is not the case.

It has been said that this is an unwarranted intrusion on the part of the Government into the administration of higher education institutions. We all know that the Government has intruded now for many years in the administration of all the schools, elementary and secondary, and higher education. It has intruded in terms of the Civil Rights Act. We now say you cannot discriminate against a person because of his race. If the Erlenborn amendment is adopted, however, we say go ahead and discriminate on the basis that that person is a woman.

Mr. Chairman, I am not going to expound at length on the few doctors we have in this country because quotas have been established, and women have been denied admission to medical schools. I am not going to go into the fact of the small number of women lawyers because there have been quotas, and women have not been admitted to law schools. But may I say to you that unless a woman is admitted at the undergraduate level she is not going to be able to go on to the graduate level, and do the caliber of work that she would like to do. So admission at the undergraduate level is very important if we are going to have more women at the graduate level.

Mr. Chairman, to summarize briefly, title X, at least as I see it, is simply an assertion of the basic American belief in human equality, and the title merely asks that universities and colleges act in good faith with their historic promise so that American women will be judged on an equal footing, on the basis of merit, as individuals without the restraints, alibis, or subterfuges of a quota system, obvious or implied.

Mr. Chairman, I ask that the Erlenborn amendment be defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

TELLER VOTE WITH CLERKS

Mrs. GREEN of Oregon. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mrs. GREEN of Oregon. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and

the Chairman appointed as tellers Mrs. GREEN of Oregon and Mr. ERLENBORN, Mrs. MINK, and Mr. ASHBROOK.

The Committee divided, and the tellers reported that there were—ayes 194, noes 189, not voting 48, as follows:

[Roll No. 349]

[Recorded Teller Vote]

AYES—194

Abbitt	Frelinghuysen	Powell
Abernethy	Frenzel	Price, Tex.
Addabbo	Frey	Purcell
Anderson, Ill.	Fuqua	Quie
Andrews, Ala.	Garmatz	Quillen
Andrews, N. Dak.	Giaimo	Randall
	Goldwater	Rarick
Archer	Goodling	Rhodes
Arends	Gross	Robinson, Va.
Ashbrook	Grover	Robison, N.Y.
Ashley	Haley	Rooney, N.Y.
Bell	Hall	Roush
Bennett	Hammer-schmidt	Rousselot
Betts		Runnels
Bevill	Harsha	Ruppe
Blackburn	Harvey	Ruth
Boland	Hastings	Sandman
Bow	Hechler, W. Va.	Satterfield
Bray	Heckler, Mass.	Saylor
Brooks	Heinz	Scherle
Brown, Mich.	Henderson	Schmitz
Brown, Ohio	Hogan	Schneebeli
Broyhill, N.C.	Horton	Schwengel
Buchanan	Hull	Scott
Burke, Fla.	Hungate	Sebelius
Byrnes, Wis.	Hunt	Seiberling
Byron	Hutchinson	Shoup
Caffery	Ichord	Shriver
Camp	Johnson, Pa.	Sikes
Carter	Jonas	Smith, Calif.
Chappell	Jones, N.C.	Smith, N.Y.
Clancy	Keating	Snyder
Clausen, Don H.	Keith	Spence
	King	Springer
Clawson, Del	Kuykendall	Steed
Cleveland	Kyl	Steele
Collier	Landgrebe	Steiger, Ariz.
Collins, Tex.	Latta	Steiger, Wis.
Colmer	Lennon	Symington
Conable	Lent	Talcott
Conte	McCollister	Taylor
Cotter	McCulloch	Teague, Calif.
Coughlin	McDade	Terry
Crane	McDonald, Mich.	Thompson, N.J.
Daniel, Va.		Thomson, Wis.
Davis, Wis.	McEwen	Thone
Delaney	McMillan	Vander Jagt
Devine	Mathias, Calif.	Veysey
Dickinson	Mathis, Ga.	Waggonner
Dorn	Mayne	Wampler
Dowdy	Mazzoli	Ware
Downing	Michel	Whalen
Duncan	Miller, Ohio	Whalley
du Pont	Mills, Md.	White
Edwards, Ala.	Minshall	Whitehurst
Erlenborn	Mizell	Whitten
Eshleman	Monagan	Widnall
Evins, Tenn.	Morse	Williams
Findley	Mosher	Wilson, Bob
Fish	Natcher	Winn
Fisher	Nichols	Wydler
Flowers	Passman	Wyman
Flynt	Pettis	Young, Fla.
Ford, Gerald R.	Peyser	Zablocki
Forsythe	Pickle	Zion
Fountain	Poff	Zwach

NOES—189

Abourezk	Brinkley	Dellums
Abzug	Broomfield	Denholm
Adams	Brotzman	Dent
Albert	Burke, Mass.	Dingell
Anderson, Calif.	Burleson, Tex.	Donohue
	Burlison, Mo.	Dow
Anderson, Tenn.	Burton	Drinan
	Byrne, Pa.	Dulski
Annunzio	Carey, N.Y.	Dwyer
Aspin	Casey, Tex.	Eckhardt
Badillo	Celler	Edmondson
Begich	Chamberlain	Eilberg
Bergland	Clay	Esch
Biaggi	Corman	Evans, Colo.
Biester	Culver	Fascell
Bingham	Daniels, N.J.	Flood
Blatnik	Danielson	Foley
Boggs	Davis, Ga.	Ford, William D.
Bolling	Davis, S.C.	
Brademas	de la Garza	Fraser
Brasco	Dellenback	Fulton, Tenn.
Galifianakis	McFall	Reuss
Gallagher	McKay	Riegle
Gaydos	McKevitt	Roberts
Gettys	McKinney	Rodino
Gibbons	Macdonald, Mass.	Roe
Gonzalez		Rogers
Grasso	Madden	Roncalio
Gray	Mahon	Rooney, Pa.
Green, Oreg.	Mailliard	Rosenthal
Green, Pa.	Mann	Rostenkowski
Griffin	Matsunaga	Roy
Griffiths	Meeds	Roybal
Gude	Melcher	Ryan
Hagan	Metcalfe	St Germain
Hamilton	Mikva	Sarbanes
Hanley	Miller, Calif.	Scheuer
Hanna	Mills, Ark.	Shipley
Hansen, Wash.	Minish	Slack
Harrington	Mink	Smith, Iowa
Hathaway	Mitchell	Staggers
Hawkins	Moorhead	Stanton, James V.
Hays	Morgan	
Helstoski	Moss	Stephens
Hicks, Mass.	Murphy, Ill.	Stokes
Hicks, Wash.	Murphy, N.Y.	Stratton
Hillis	Nedzi	Stubblefield
Holifield	Nix	Stuckey
Howard	Obey	Sullivan
Jacobs	O'Hara	Teague, Tex.
Jones, Ala.	O'Konski	Thompson, Ga.
Karth	O'Neill	Tiernan
Kastenmeier	Patman	Ullman
Kazen	Patten	Van Deerlin
Kemp	Pelly	Vanik
Kluczynski	Pepper	Vigorito
Koch	Perkins	Waldie
Kyros	Pike	Wiggins
Landrum	Podell	Wolff
Leggett	Preyer, N.C.	Wyatt
Link	Price, Ill.	Wylie
Long, Md.	Pryor, Ark.	Yates
McClory	Pucinski	Yatron
McCloskey	Rangel	Young, Tex.
McCormack	Reid, N.Y.	

NOT VOTING—48

Alexander	Diggs	Mollohan
Aspinall	Edwards, Calif.	Montgomery
Baker	Edwards, La.	Myers
Baring	Gubser	Nelsen
Barrett	Halpern	Pirnie
Belcher	Hansen, Idaho	Poage
Blanton	Hébert	Railsback
Broyhill, Va.	Hosmer	Rees
Cabell	Jarman	Sisk
Carney	Johnson, Calif.	Skubitz
Cederberg	Jones, Tenn.	Stanton, J. William
Chisholm	Kee	
Clark	Lloyd	Udall
Collins, Ill.	Long, La.	Wilson, Charles H.
Conyers	Lujan	
Dennis	McClure	Wright
Derwinski	Martin	

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BURTON

Mr. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON: Page 198, line 4, strike out "SEX".

Page 201, after line 7, insert the following:

SEC. 1006. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity: *Provided, however,* That nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

Redesignate the sections which follow accordingly.

Mr. BURTON. Mr. Chairman, this amendment was adopted in the subcommittee and due to a staff and clerical oversight was left out of the bill as reported.

Mr. Chairman, I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, the gentleman is absolutely correct. This was approved in the subcommittee. It affects blind people. It is a good amendment. It was inadvertently left out when the section was reported in the full committee. The amendment has my support.

Mr. BURTON. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, the gentlewoman from Oregon has accurately explained the situation, and I would be happy to accept the amendment.

Mr. BURTON. Mr. Chairman, I ask for a "yea" vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: On page 198, line 6, after SEC. 1001 insert "(a)".

On page 198, after line 22, insert the following new subsection:

"(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institutional to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided,* That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex."

Mr. QUIE. Mr. Chairman, this amendment would provide that there shall be no quotas in this sex antidiscrimination title.

The Civil Rights Act presently has a similar provision against quotas, in section 703(j) of the Civil Rights Act of 1964. It reads as follows:

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section or other area.

Also in the subcommittee we included in title X exactly the provision that I am offering an amendment, and it was adopted at that time. When the language

was changed in the full committee that subsection was dropped.

But I point to another section of the bill on page 162. It extends and amends title IV of the National Defense Education Act, having to do with fellowships.

In the provision of the National Defense Education Act for the training of college teachers—and other post secondary teachers—I offered the amendment which would, among other things, have considered the need to prepare a larger number of teachers and other academic leaders from minority groups, and the gentlewoman from Oregon asked me if I would be agreeable to this similar provision that was included in my title X, to prevent quotas, to be placed there, so that there would not be a requirement of quotas of people of minority groups in the training of professors or instructors in institutions for post secondary education. We agreed to do that. The language appears on page 162 and says:

nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of persons of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of persons of that group in any community, State, section, or other area,

The gentlewoman indicated in her remarks in support of title X that she is opposed to quotas. To make it absolutely certain there will not be a requirement of quotas in the graduate institutions and employment in institutions of higher education similar to the prohibition against preferential treatment for minorities under the Civil Rights Act I believe this legislation is necessary. In that way we would have similar protection as that which exists in the Civil Rights Act and in another provision in the act before us, H.R. 7248.

Mrs. GREEN of Oregon. Mr. Chairman, I will just take 1 minute.

As I stated before, I am opposed to quotas. I do recall the debate on the EEOC when I asked the gentleman from Minnesota and the gentleman from Illinois if they would accept an amendment which would prohibit any preferential treatment in the EEOC and keep quotas out. The gentlemen would not accept that kind of amendment, and, as I understand it, they favor the Philadelphia Plan in industries. To my way of thinking a quota system would hurt our colleges and universities. I am opposed to it even in terms of attempting to end discrimination on the basis of sex.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the chairman being in doubt, the committee divided, and there were—ayes 90, noes 1.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. DELLENBACK

Mr. DELLENBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLENBACK: On page 198, beginning on line 6, after Sec. 1001 insert "(a)".

On page 198, after line 22, insert the following new subsection:

"(b) For purposes of this section an educational institution means any pre-school, elementary or secondary school, or any institution of higher education, except that in the case of an institution of higher education composed of more than one school or college which is an administratively separate unit, such term means each such school or college."

Mr. DELLENBACK. Mr. Chairman and colleagues, we have in the bill as it now stands before us a situation where under section 1001 of subparagraph 2, although it could also happen under subparagraph 1 and subparagraph 3 but most particularly under subparagraph 2, a situation which I do not think is intended in the bill and yet it exists at the present time if the language of the bill remains.

Namely, we would have a situation where at the present time the graduate school of an institution of higher education might very well be in a position where it has admitted students of both sexes; whereas, another graduate school of the same institution or, perhaps, the undergraduate school would not have admitted both sexes. At one of the schools which has not admitted both sexes, then we have the situation where the school begins to move in that direction.

It is intended under subparagraph (2) that that school would have 7 years during which to be able to make that transition, yet because of the fact that the institution is treated as a whole and as a single entity it could not count the 7 years as beginning to run from the day it began the transition in this undergraduate school, say, because it has already had students of both sexes for a great many years in the past.

This is intended to make absolutely certain in a situation like that where there are administratively separate units, then the units should be treated separately and not as one package.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Hawaii.

Mrs. MINK. With the adoption by this body of the Erlenborn amendment which provides no exemption to undergraduate institutions, will the gentleman advise me as to the necessity of the gentleman's amendment, because we no longer need to deal with a distinction between undergraduate and graduate colleges.

Mr. DELLENBACK. We may still have separate units in a given institution where one would have multiple graduate schools. Here we are attempting to say where we have administratively separate units and they are striving to make the transition in one of these separate units, it should not be forced to do it overnight merely because another body of the university has had a mixture of sexes for some period of time. So, even with the exemption of the undergraduate schools, it seems to me this could possibly happen and that we would still need this.

Mrs. MINK. Mr. Chairman, if the gentleman will yield further, Is the gentleman attempting to make distinctions, then, within two graduate schools in one institution? Is that the purpose of the gentleman's amendment?

Mr. DELLENBACK. That is one purpose, to make such distinction possible. I think the primary situation is equated to the Bryn Mawr situation which was stated by the gentleman from New York (Mr. BINGHAM). We have had a communication from that institution wherein they expressed concern about the undergraduate division being in one situation and the two graduate schools of Bryn Mawr being alike in another institution. However, there is still this possibility.

I have not checked all of the 2,600 educational institutions in the Nation to see which, just as Bryn Mawr, have two graduate schools. It also could apply to other schools which have multiple graduate schools which could have different procedures in these different administrative units.

This is intended to block the possibility of a situation which would in effect say to one administratively separate unit, "You do not dare start it because if you do, you will have to do it overnight."

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The gentleman used the words, "which is administratively a separate unit." Would the gentleman please for the purpose of the record define "administratively separate"?

Mr. DELLENBACK. The intention in using the term is to deal with different branches of one institution of higher education which would have separate admissions policies, and what one school would do in admitting students would not necessarily be binding on what another school or group within that university would be doing.

This is what I mean by administratively separate unit. Actually, this language was worked out by counsel for our side and I thought counsel for your side.

We were striving to reach the situation as I say where different schools or colleges within one university would have different controls over the admission to these separate schools or colleges.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(On request of Mrs. GREEN of Oregon, and by unanimous consent, Mr. DELLENBACK was allowed to proceed for 2 additional minutes.)

Mrs. GREEN of Oregon. Mr. Chairman, would the gentleman yield further?

Mr. DELLENBACK. I yield further to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. In the case of Oregon, the University of Oregon at Eugene, and the medical school in Portland, they would obviously be instances of two separate units. But where you have graduates and undergraduates on the same campus, and they are treated financially as the same unit or they have the same admissions policy, this amendment would not apply; is that correct?

Mr. DELLENBACK. It would depend, still staying with our University of Oregon——

Mrs. GREEN of Oregon. I have no question about that.

Mr. DELLENBACK. Going to the Uni-

versity of Oregon, as a further example, there is on the Eugene campus not only the undergraduate school of the university, but the law school. Just as with the medical school that is up at Portland, the law school on the campus of the University at Eugene has actually an entirely different admissions system than the undergraduate school.

In that situation I would say the law school has one policy, possibly, and the undergraduate school has maybe another policy. It is intended not to cover just a different physical location, but to cover a different administration where the people who normally direct the admissions policy may not be the same people in each instance.

Mrs. GREEN of Oregon. If the gentleman will yield further, then this does, I believe, clarify that when we define administration as a separate administrative unit, it is a unit which has a separate admissions policy and we limit it only to them?

Mr. DELLENBACK. I am seeking only to cover differences in admissions. In this particular proposal in dealing in terms of the phrase "administratively separate units," I am not dealing with administrations within the schools or colleges which in total make up the university other than those that pertain to admissions.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon (Mr. DELLENBACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMPSON OF GEORGIA

Mr. THOMPSON of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON of Georgia: on page 202, insert Sec. 1010. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed as to prohibit any educational institution receiving funds under this act, from maintaining separate living facilities for the different sexes.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Georgia. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, this amendment was discussed just a few moments ago, and I certainly have no objection to it. I would hope that in the interest of time we can accept it, and then reach a time limitation on the title.

Mr. THOMPSON of Georgia. I thank the gentlewoman from Oregon. All this amendment does is to allow for different living accommodations for the sexes. I hope it will be adopted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. THOMPSON).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XI—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

SEC. 1101. The Higher Education Act of 1965 adding after title XII the following new title:

"TITLE XIII—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

"SEC. 1301. The Congress, in recognition of the profound impact of mineral exploration and development on the health and safety of persons working in the mineral industries and on the interrelations of all facets of the natural environment, including, but not limited to, ground subsidence, mine fires, air and water resources, and fish and wildlife, and on outdoor recreation, aesthetic, agricultural, and other similar values of national, regional, and local significance, and in recognition of the fact that the prosperity and future welfare of the Nation is dependent, in large measure, on the sound exploration, extraction, processing, and development of its unrenewable mineral resources, declares that it is the purpose of this title to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists (a) for the mineral industries engaged in research, investigations, experiments, demonstrations, exploration, extraction, processing, developing, and production of such resources in a manner consistent with the need to protect and enhance the quality of the total environment, and (b) for the public agencies concerned with such mineral activities, with the health and safety of persons employed in such industries, and with the protection and enhancement of the total environment.

"SEC. 1302. (a) The Commissioner is authorized to make, in accordance with the provisions of this title, grants each fiscal year, for establishing and carrying out the work of a competent and qualified mineral resources conservation institute, center, or equivalent agency (hereinafter referred to as an 'institute'), to such institutions of higher education as he may select, not to exceed ten in the Nation, and selected so as to serve the needs of a region, which shall be an institution of higher education established in accordance with sections 1 through 5, 7, and 8, of the Act of July 2, 1862, as amended (7 U.S.C. 30–305, 307, and 308), or some other institution of higher education designated by the Governor of the State with which the institution is located. Institutions of higher education selected under this subsection are encouraged to cooperate with other such institutions in participating in the work of the institute.

"(b) The Commissioner shall approve any application or any modification thereof submitted annually under this section by a designated institute, which he finds, in consultation with the Secretary of the Interior—

"(1) sets forth a plan to provide for the training, consistent with the purpose of this title, of individuals as mineral engineers and scientists under a four-year undergraduate curriculum appropriate to the field of mineral resources and mineral engineering and related fields of environmental control, and to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to the exploration, extraction, processing, development, and conservation of mineral resources, to the solution of current and emerging problems of minerals technology, and to the protection and enhancement of health and safety of persons employed in the minerals industries and of the total environment affected by mineral operations;

"(2) gives assurances that such institute has or will promptly employ an adequate and competent faculty and administrative personnel;

"(3) sets forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may require, in consultation with the Secretary of the Interior, and for keeping such records and for affording access thereto; and

"(6) meet such additional conditions and regulations as the Commissioner may from time to time prescribe consistent with the purpose of this title.

"(c) In approving applications under subsection (b) of this section, the Commission shall require the institute to show that its program of mineral research, investigations, demonstrations, and experimental projects has been developed so as to avoid, having due regard to the varying conditions and needs of each State or region, (1) undue displacement of mineral scientists and engineers engaged in such activities, and (2) duplication, to the greatest extent possible, of, such mineral projects conducted or being conducted by Federal or State agencies or other institutes.

"(d) There are authorized to be appropriated to the Commissioner for grants under this section for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to pay not to exceed $500,000 annually of the estimated cost of establishing and carrying out the work of an institute. The Commissioner shall provide for an equitable distribution of sums appropriated for such grants. Such sums shall remain available until expended. The institute shall assume indirect costs. A minimum of 20 per centum of such grant shall be designated for scholarships, graduate fellowships, and postdoctoral fellowships.

"SEC. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industrywide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title.

"(b) Each application for a grant under this section and section 1304 of this title shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualification of the personnel who will direct and conduct it, the estimated cost, the extent of participation by nongovernmental sources in the project, including the identification of the participants, the importance of the project to the Nation, region, or State, and its relation to other known research projects theretofore pursued or being pursued. The Secretary of the Interior shall review each such application and shall make recommendations thereon to the Commissioner within thirty days after receipt of such application concerning the adequacy and merit of the project, the knowledge which it is expected to produce when completed, and

such other matters as he deems appropriate. The Commissioner shall not make any grant for a project which the Secretary of the Interior recommends disapproval of, or which, in the judgment of the Commissioner, does not provide an adequate opoprtunity to train individuals as mineral engineers and scientists consistent with the purpose of this title.

"(c) In making grants under this section, the Commissioner shall prescribe such terms and conditions consistent with the purpose of this title.

"SEC. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this title.

"SEC. 1305. No research, demonstrations, or experiments shall be carried out under this title by an institute financed by grants under this title, unless all information, uses, products, processes, patents, and other developments resulting therefrom (with such exception or limitation, if any, as the Commissioner may find to be necessary in the public interest) be made available promptly to the general public. Funds appropriated under this title shall be available for printing and publishing the results of activities carried out with the assistance of such funds by institutes and for administrative planning and direction.

"SEC. 1306. To assure that any institute established under this title is adequately equipped to train individuals, the Commissioner may make grants to each institute to pay 50 per centum of the cost of purchasing equipment and supplies. The equipment and supplies so purchased shall be used primarily for the education and training of individuals consistent with the purposes of this title. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to remain available until expended, to carry out the purposes of this section.

"SEC. 1307. (a) The Commissioner shall appoint an advisory committee on mineral research composed of—

"(1) the Director of the National Science Foundation, or his delegate, with his consent;

"(2) the President, National Academy of Sciences, or his delegate, with his consent;

"(3) the President, National Academy of Engineering, or his delegate, with his consent;

"(4) the Director, Bureau of Mines, or his delegate, with his consent; and

"(5) such other persons as the Commissioner may appoint who are knowledgeable in the field of mineral research and its impact on health and safety and the quality of the environment.

"(b) The Commissioner shall designate the chairman of the committee. The advisory committee shall consult with, and make recommendations to, the Commissioner and the Secretary of the Interior on matters involving or relating to the purpose of this title. The Commissioner and the Secretary of the Interior shall consult with, and consider recommendations of, such committee in the conduct of mineral research and development and the making of any grant under this title."

Mrs. GREEN of Oregon (during the reading.) Mr. Chairman, I ask unanimous consent that title XI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

POINT OF ORDER

Mr. EDMONDSON. Mr. Chairman, I have a point of order as to this title.

The CHAIRMAN pro tempore. The gentleman will state the point of order.

Mr. EDMONDSON. Mr. Chairman, pursuant to House Resolution 661, I make a point of order against title XI of H.R. 2748 on the ground that the subject matter of title XI is within the jurisdiction of the Committee on Interior and Insular Affairs.

Under rule XI, clause 10, of the Rules of the House of Representatives, the Committee on Interior and Insular Affairs has jurisdiction over mining interests generally and over mining schools and experimental stations specifically.

Title XI of the bill authorizes grants to establish 10 mineral resources conservation institutes. The purpose of these institutes is to train mineral engineers and scientists, and to conduct research and experiments of either a basic or practical nature. These institutes clearly are mining schools and mining experimental stations within the meaning of the rules of the House.

Title XI of the bill also authorizes matching grants to these 10 new institutes for the purpose of conducting specific mineral research and demonstration projects of industrywide application. These are activities historically carried on by mining school and experiment stations. These activities also relate to mining interests generally. Both subjects are assigned to the Committee on Interior and Insular Affairs.

Title XI of the bill further authorizes grants to any educational institution to undertake mineral research and demonstration projects. Such projects can reasonably be expected to be carried out through the mining school or the mining department of the grantee. Moreover, the purpose of the research and demonstration projects is to promote the interests of the mining community generally.

Finally, a separate bill, S. 635, which also authorizes grants to establish mineral resources institutes, has been referred to the Committee on Interior and Insular Affairs, and is now pending before our committee. S. 635 and title XI of H.R. 7248 deal with the same subject matter. Both provide for mining schools, or institutes, which will engage in mining and mineral research, demonstrations, and experiments. Both will train engineers, scientists, and technicians in the minerals field. S. 635 was properly referred to the Committee on Interior and Insular Affairs. Title XI of H.R. 7248 deals with exactly the same subject, and it also is within the jurisdiction of the Interior Committee. I make a point of order against the retention of title XI in the bill.

The CHAIRMAN pro tempore. Does the gentleman from Pennsylvania (Mr. DENT) desire to be heard on the point of order?

Mr. DENT. Yes, Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. DENT) is recognized.

Mr. DENT. Mr. Chairman, at the outset I might say this particular section in the act embodies the contents of H.R. 3942, a bill introduced by myself and the gentlewoman from Oregon (Mrs. GREEN) as the initial and original proposal to create these mineral research schools. The gentleman from Pennsylvania (Mr. SAYLOR) was a cosponsor. It was introduced on February 3, 1971, and it was sent to the Committee on Education and and Labor—and properly so, we thought, and so think at this moment.

Mr. Chairman, the gentleman from Colorado (Mr. ASPINALL) and the gentleman from Oklahoma (Mr. EDMONDSON) contend that title XI of the bill is subject matter not properly within the jurisdiction of the Committee on Education and Labor, but rather within that of the Committee on Interior and Insular Affairs. This is not the case.

The subject matter of title XI is higher education, as is the subject matter of all of H.R. 7248. The subject matter of other referred-to legislation under consideration by the Committee on Interior and Insular Affairs is mineral research.

The thrust and purpose of title XI, as stated in section 1301 of the bill, is to assure the Nation an adequate supply of mineral engineers and scientists. The section also contains a congressional declaration to that effect.

The essence of all of title XI is to support the education of such personnel, and the colleges and universities that train them. It is not, in any way, an intrusion into the clear prerogative of the Committee on Interior and Insular Affairs in matters of "mining interests generally," as prescribed by rule XI—Powers and Duties of Committees—of the rules of the House. Rather—and rule XI is not silent on this point—it falls within the jurisdiction of the Committee on Education and Labor pursuant to its responsibility for "measures relating to education—generally."

Title XI is in most respects complementary to, rather than in conflict with, the bill on which the chairman of the Interior and Insular Affairs Committee intends to hold hearings—H.R. 10950. Whereas the emphasis of the Interior committee bill is on research, investigation, advancement of knowledge, and establishment of development programs, the stated purpose of title XI is "to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists." To achieve this purpose the title gives a high priority, for example, to the development and support of appropriate 4-year undergraduate curriculums by encouraging the employment of "adequate and competent faculty personnel," by recommending funds for equipment to be "used primarily for the education and training of individuals," and by making provision for scholarship funds. In support of more advanced education it provides for fellowships and postdoctoral fellowships. Title XI also provides sums for the conduct of specific mineral research and demonstration projects of industrywide application.

As made evident in a recent National Academy of Sciences article, entitled "Mineral Science and Technology: Needs, Challenges and Opportunities," our Nation's position in the mineral resources area is deteriorating dangerously. It is not so much the result of exhaustion of the country's mineral resources as it is of our not developing the needed technology for efficient processing and utilization of the resources we have. Of paramount importance at the present time is a strong governmental program directed at developing the human resources involved—that is, personnel trained in the fields of mineral sciences and technology—and a simultaneous program to develop the knowledge needed for the useful development of our solid, liquid, and gaseous mineral resources.

Title XI will provide an important beginning in support of the tremendous need for appropriate education in this critical area. In this respect it will effectively complement the Interior Committee bill which appropriately places emphasis on research and development.

H.R. 4392 proposed a new title XIII—Improvement of Mineral Conservation Education—to the Higher Education Act of 1965. It was referred to the Committee on Education and Labor; and it was included as title XI in the bill now before us, with none other than a few minor technical changes. At that time, the decision was made that the bill was properly within the jurisdiction of the Committee on Education and Labor. Since the question before the Chair does not involve language other than that contained in my original bill, I do not see on what basis the point of order can be sustained.

Moreover, it is apparent that the jurisdiction of some broad subject matters—such as mining—is often divided among committees. With respect to mining, it is obvious that "mining interests generally" are within the province of the Committee on Interior and Insular Affairs. Yet, insofar as health and safety legislation for miners generally, that is within the jurisdiction of the Committee on Education and Labor.

The bill before us contains a similar example. Title X—Improvement of Graduate Programs—provides grants, for instance, to medical schools. There is no challenge that this provision invades the jurisdiction of any other committee. Yet, the subject matter is medicine. With regard to the broad field of medicine: the Committee on Interstate and Foreign Commerce is responsible for the Public Health Service Act—including the Hill-Burton Act—and the Federal Food, Drug, and Cosmetic Act; the Committee on Ways and Means is responsible for medicare, which certainly relates to medicine; the House recently approved the Veterans' Medical Care Act of 1971, reported by the Committee on Veterans' Affairs; the Committee on Armed Services is considering legislation to provide medical schools for the armed services and the Committee on Foreign Affairs is considering legislation to create an international health agency. I could go on and on, but I expect I have made my point.

In the face of this, I respectfully suggest that the point of order is not valid; that title XI of H.R. 7248 is quite properly within the jurisdiction of the Committee on Education and Labor; and that the point of order should not be sustained.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is prepared to rule. The gentleman from Oklahoma (Mr. EDMONDSON) has raised a point of order against title XI, beginning on page 202, line 9, through page 210, line 15, on the grounds that the subject matter of this title is within the jurisdiction of the Committee on Interior and Insular Affairs and not the Committee on Education and Labor.

The Chair has listened to the arguments presented and has examined the provisions of title XI, as well as the provisions of the rule, House Resolution 661, which made consideration of this bill in order. The rule provides that any title, part, or section of the committee amendment in the nature of a substitute shall be subject to a point of order if the subject matter thereof is properly within the jurisdiction of another committee.

Title XI would provide that the Commissioner of Education may make grants for the establishment of not to exceed 10 "mineral resources conservation institutes" within existing institutions of higher education which he selects. Appropriations are authorized to enable such institutes to conduct educational training programs, not only in the areas of mineral resources exploration, extraction, processing, development, and conservation, but also in the areas of protection and enhancement of health and safety of persons employed in the minerals industries.

To be sure, the Committee on Interior and Insular Affairs has jurisdiction, under clauses 10 (k) and (l) of rule XI, over measures relating to "mining schools" and "mining interests." It should also be noted, however, that the Committee on Education and Labor, under clauses 6(a) and 6(m) of rule XI, has jurisdiction over measures relating to "education generally"—thus including institutions of higher education—and over "welfare of miners," which would include the health and safety of miners.

Where, as here, the jurisdiction of committees of the House is essentially and basically involved, the Chair must refer for guidance to the introduction and reference by the Speaker under rule XI of bills touching on similar subject matter. The Chair notes that on February 3, 1971, the Speaker referred H.R. 3492 to the Committee on Education and Labor. That bill, as does title XI of the committee substitute, proposes an amendment to the Higher Education Act of 1965 and seeks to establish precisely the type of mineral resources conservation institutes within existing institutions of higher education sought to be established by title XI.

The Chair holds that title XI in the form in which proposed by the Committee on Education and Labor is properly within the jurisdiction of that committee, and, therefore, overrules the point of order.

The Clerk will read.

The Clerk read as follows:

TITLE XII—CONSTITUTING THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM AS LAND-GRANT COLLEGES

SEC. 1201. The College of the Virgin Islands and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

SEC. 1202. In lieu of extending to the Virgin Islands and Guam those provisions of the Act of July 2, 1862, as amended, referred to above, relating to donations of public land or land script for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated to the Virgin Islands and Guam the sum of $3,000,000 each. Amounts appropriated under this section shall be held and considered to have been granted to the Virgin Islands and Guam subject to the provisions of that Act applicable to the proceeds from the sale of land or land script.

SEC. 1203. The Act of August 30, 1890, as amended (26 Stat. 417; 7 U.S.C. 322–326), is further amended—

(1) by striking the words "and Territory" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking the words "and Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam";

(3) by striking the words "or Territory" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, or Guam";

(4) by striking the words "or Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, or Guam"; and

(5) by striking the words "or Territorial" where they appear.

SEC. 1204. Section 22 of the Act of June 29, 1935, as amended (49 Stat. 439; 7 U.S.C. 329), is further amended—

(1) by striking the words "and Puerto Rico" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam.";

(2) by striking the figure "$7,800,000" and substituting in lieu thereof the figure "$8,100,000"; and

(3) by striking the figure "$4,320,000" and substituting in lieu thereof the figure "$4,360,000".

SEC. 1205. The Act of March 4, 1940 (54 Stat. 39; 7 U.S.C. 331) is amended—

(1) by striking the words "and Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking the words "or Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, or Guam"; and

(3) by striking the word "State" wherever it appears in the third proviso of that Act and substituting in lieu thereof the words "State, Puerto Rico, the Virgin Islands, or Guam".

SEC. 1206. Section 207 of the Agricultural Marketing Act of 1946 (60 Stat. 1091; 7 U.S.C. 1626), is amended by striking the period at the end of the section and adding the following words: ", and the term 'State' when used in this chapter shall include the Virgin Islands and Guam."

SEC. 1207. Section 3 of the Act of May 8, 1914, as amended (38 Stat. 373; 7 U.S.C. 343), is further amended by redesignating subsection (b) as paragraph (1) of subsection (b) and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for pay-

ment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1973, and June 30, 1974, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act."

SEC. 1208. Section 10 of the Act of May 8, 1914, as amended, is amended by striking the words "and Puerto Rico" and inserting in lieu thereof the words, ", Puerto Rico, the Virgin Islands, and Guam".

SEC. 1209. Section 4 of the Act of October 10, 1962 (76 Stat. 806, 16 U.S.C. 582a–3), is amended by striking the period at the end of the first sentence thereof and adding the following language: ", except that for the fiscal years ending June 30, 1973, and June 30, 1974, the matching funds requirement hereof shall not be applicable to the Virgin Islands and Guam and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research."

SEC. 1210. Section 8 of the Act of October 10, 1962 (76 Stat. 807; 16 U.S.C. 582a–7), is amended by striking the period at the end thereof and adding the words, ", the Virgin Islands and Guam".

SEC. 1211. Section 1 of the Act of August 11, 1955 (7 U.S.C. 361a–361i), is amended by striking the period after the second sentence and adding the words, ", Virgin Islands and Guam," and deleting "and" between the words "Hawaii and Puerto Rico".

SEC. 1212. Section 3 of the Act of August 11, 1955 (7 U.S.C. 361a–361i), is amended by redesignating subsection (b) as paragraph (1) of subsection (b) and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1973, and June 30, 1974, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act."

SEC. 1213. With respect to the Virgin Islands and Guam the enactment of this title shall be deemed to satisfy any requirement of State consent contained in laws on provisions of law referred to in this title.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. GOODLING. Mr. Chairman, I make a point of order against title XII of H.R. 7248, this bill.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. GOODLING. Mr. Chairman, I make a point of order against the language in title XII of the committee amendment to H.R. 7248. The language I refer to appears at page 210, line 16 through page 215, line 16 of the bill as reported by the Education and Labor Committee.

I make this point of order pursuant to the provision of House Resolution 661 (the rule on H.R. 7248) which states as follows:

and further, all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248.

The basis for my point of order is that the language to which I refer amends or alludes to eight specific agricultural statutes. These are:

First. The first Morrill Act (the act of July 2, 1862).

Second. The second Morrill Act (the act of June 29, 1890).

Third. The Bankhead-Jones Act (the act of June 29, 1935).

Fourth. The act of March 4, 1940.

Fifth. The Agricultural Marketing Act of 1946.

Sixth. The act of May 8, 1914.

Seventh. The act of October 10, 1962.

Eighth. The act of August 11, 1955.

In the 91st Congress the Chair referred to the Committee on Agriculture a bill (S. 1148) containing nearly identical language.

More recently, in this session of the 92d Congress, on October 27, 1971, a bill (H.R. 11436) containing the identical language of title XII was introduced and referred by the Chair to the Committee on Agriculture.

In addition, rule XI, clause 1(d) of the Rules of the House of Representatives vests jurisdiction over "agricultural colleges and experiment stations" in the Committee on Agriculture. Also, in the ruling of the Chair, Hinds Precedents IV, 4152, it was clearly held that the subject of land-grant colleges and experiment stations is within the jurisdiction of the Committee on Agriculture.

Mr. PERKINS. Mr. Chairman, I should like to be heard on the point of order.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The Chair will hear the gentleman.

Mr. PERKINS. Mr. Chairman, all the land-grant colleges in America receive Federal assistance under educational programs which the Committee on Education and Labor has always handled.

The original bill, introduced by the gentlewoman from Oregon (Mrs. GREEN), myself and others, contained the land-grant college provision for the Virgin Islands and Guam. In accordance with all the rulings of the past, the ruling of the Chair, to be consistent, would have to be that the point of order should be overruled.

I have in mind the peculiar rule that was adopted when we first commenced to consider this bill, but I am of the opinion that if we set a precedent along that line we will never be able to legislate on any comprehensive piece of legislation in this Chamber.

Let me state that the Committee on Agriculture has not had exclusive jurisdiction down through the years over land-grant colleges. What committee assumed jurisdiction in connection with the Federal college here for the District of Columbia? And Alaska? And Hawaii? Not the Committee on Agriculture. So the committee is not in a condition to claim exclusive jurisdiction.

Also, the Senate bill, S. 659, has section 406, which provides land-grant status for the College of the Virgin Islands and the University of Guam, and the bill was referred to the Committee on Education and Labor just a month and a half ago.

Referrals which bestow jurisdiction follow precedents set in previous Congresses. I believe this is important. They follow precedents set in previous Congresses. These precedents, in my judgment, far overshadow any rule that has been adopted to hear this legislation, if we are going to have orderly procedure in this Chamber.

For example, on June 30, 1971, H.R. 17911, the exclusive purpose of which was to provide land-grant status to the College of the Virgin Islands, was referred to the Committee on Education and Labor. This proposal was not a part of a comprehensive bill. Even though it was a separate and single purpose piece of legislation, it was referred to the Committee on Education and Labor.

The precedents of the House fully support our contention that referral of a bill confers jurisdiction on the committee to which the bill has been referred.

It is my contention, Mr. Chairman, that in a situation of that type the referral of a bill confers jurisdiction, and takes precedence over any rule that may be adopted to hear any specific piece of legislation or to provide the orderly procedure for the hearing of a piece of legislation.

In passing judgment on the point of order, I respectfully call your attention to section 4362 through 4372 of the precedents of the House of Representatives.

You should consider this title as a component part of a major thrust in the committee bill to strengthen higher education in the Virgin Islands and Guam. That is all it is.

As an educational matter, H.R. 7248 proposes to provide additional money to the University of Guam and the College of the Virgin Islands. This is conforming to the other provisions of H.R. 7248 in which we amend the existing higher education programs for such programs in these islands, thus increasing their allotment of funds to such programs.

In conclusion, Mr. Chairman, I want to say to the committee that the benefits, the funding, in all of these land-grant colleges is such that we are legislating every time we bring a higher education bill to this floor for the land-grant colleges of this country. We are not trying here to steal away or assume the sole responsibilities of the Committee on Agriculture, but it is the duty of the Committee on Education and Labor to advance the cause of education in this country.

That is all we are doing in this legislation. It is our contention, therefore, that the point of order should be overruled.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. GOODLING) has raised a point of order against the provisions of title XII of H.R. 7248, as reported by the Committee on Education and Labor, on the ground that this title properly falls within the jurisdiction of a committee other than Education and Labor; namely, the Committee on Agriculture.

The Chair has examined the provisions of title XII. It provides that the College of the Virgin Islands and the University of Guam shall be considered as land-grant colleges in accordance with the provisions of the first Morrill Act, as amended. The title also amends the second Morrill Act, the Bankhead-Jones Act, and the act of March 4, 1940, plus some five other acts. Some of these measures were originally within the jurisdiction of the old Committee on Public Lands—now the Committee on Interior and Insular Affairs. Others were reported by the Committee on Education; still others by the Committee on Agriculture. The Chair notes that, in lieu of granting to these educational institutions public lands, section 1202 provides an authorization of $3 million to each institution.

Rule XI, clause 1, states that the Committee on Agriculture has jurisdiction over "agricultural colleges and experiment stations." Clause 10 of that rule gives the Committee on Interior and Insular Affairs jurisdiction of "measures relating generally to * * * the insular possessions of the United States. * * *" Education and Labor, under this same rule, oversees "measures relating to education * * * generally."

It is obvious to the Chair that to some degree the jurisdiction of at least these three committees of the House is touched on by the subject matter of title XII.

In this situation, the manner in which the text is drafted must be considered. The Chair has thus reviewed several different bills which have been introduced on the subject of colleges in the Virgin Islands and in Guam. Some of these bills have been referred to the Committee on Interior and Insular Affairs, others to Agriculture and Education and Labor. Bills in the precise form of title XII have, however, been consistently referred to the Committee on Agriculture.

Having taken all these matters into consideration, the Chair finds that title XII, as drafted in the pending bill, is properly within the jurisdiction of the Committee on Agriculture. The Chair, therefore, sustains the point of order and the language of section XII is stricken from the bill.

AMENDMENT OFFERED BY MR. MATSUNAGA

Mr. MATSUNAGA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATSUNAGA: Beginning with line 16 on page 210, strike out everything down through line 16 on page 215 and insert in lieu thereof the following:

TITLE XII—SPECIAL ASSISTANCE FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 1201. In order to enable the Commissioner of Education to make grants to the College of the Virgin Islands and the University of Guam in recognition of the fact that such institutions and the areas they serve do not receive the support afforded land-grant colleges, there is authorized to be appropriated the sum of $3,000,000 for each such institution to be used as an endowment, and the sum of $450,000 for each such institution for the fiscal year 1973, and each succeeding fiscal year, for strengthening higher education, including community service programs, in the areas they serve.

POINT OF ORDER

Mr. GOODLING. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The gentleman will state his point of order.

Mr. GOODLING. Mr. Chairman, the Chair has already sustained a point of order against the language of title XII of the committee bill.

The gentleman from Hawaii's amendment does the same thing. It awards $3,000,000 to each of the schools included in title XII of the committee bill.

Since the point of order has already been sustained against the language of title XII, there obviously is no title XII in the bill anymore.

Thus, the language of the gentleman's amendment is no longer germane to any provision included in the bill.

Precedents are clear that any amendment must be germane to the particular paragraph or section to which it is offered—(V, 5811–5820; VII, 2922, 2936—and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered—V, 5822; VIII, 2927, 2931; ruling by Chairman NATCHER, July 14, 1970.

In summary, Mr. Chairman, the basis for my point of order is the ruling of the Chair on my earlier point of order and the fact that the proposed amendment is no longer germane to the bill.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. GOODLING) makes a point of order against the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA).

The Chair has considered the point of order and read the language submitted by the gentleman from Hawaii. The amendment now pending is substantially different from the title in the committee amendment in the nature of a substitute against which the point of order was sustained. The current amendment is within the jurisdiction of the Committee on Education and Labor.

Since the original bill—the introduced version of H.R. 7248—had a title on the College of the Virgin Islands and the University of Guam, the amendment in the form of a new title on that same subject is germane.

The Chair, therefore, holds the amendment is germane and overrules the point of order.

Mr. MATSUNAGA. Blessed are the peacemakers, for their amendments shall be adopted. That, Mr. Chairman, I hope will be the lesson of this moment, for I offer my amendment as a peacemaker to settle a jurisdictional dispute which has arisen over title XII.

As a member of the Rules Committee, I witnessed from the very front row a battle royal between the Education and Labor Committee on the Committee on Agriculture. Because of my inherent love for peace, and upon the urging of the gentlewoman from Oregon, I decided to step in and play the role of peacemaker to avoid any bloodshed on the floor. Accordingly, I approached all parties involved in the jurisdictional dispute, including the gentleman from Pennsylvania, with the idea embodied in my amendment, and, as expected, all parties agreed that the amendment would resolve the jurisdictional dispute.

It was agreed, then, that a point of order would not be raised against title XII on condition that the pending amendment would be offered. I deeply regret the change of mind on the part of the gentleman from Pennsylvania.

My amendment omits all of the objectionable language in title XII as reported by the committee and contains new language which would, in effect, accomplish the same intended purpose; that is, to provide the same benefits to the University of Guam and the College of the Virgin Islands as are available to land-grant colleges.

If these two institutions of higher learning were constituted as land-grant colleges, they would each qualify for a one-time appropriation of $3 million, as an endowment in lieu of public land, and each would be eligible to receive approximately $450,000 annually to improve its educational program.

My amendment would provide those authorizations without conferring land-grant status on either school. Budgetwise, this would mean that the expenses engendered by the new title XII will be borne by the Department of Health, Education, and Welfare rather than the Department of Agriculture. My amendment would involve no additional expense on the part of the Government over and above that provided in the reported bill; nor would the institutions suffer any detriment.

It is appropriate, Mr. Chairman, that this unique status be conferred on these two schools. The demonstrated needs to which they respond are at least equal to, although somewhat different from, what we customarily think of as those of a land-grant college. The College of the Virgin Islands, for example, has begun a specialization in oceanography; and the University of Guam is the only American institution of higher education in the western Pacific area.

I believe, Mr. Chairman, that my amendment will successfully resolve a difficult parliamentary situation, and at the same time insure that these two im-

portant institutions will be better able to serve our fellow Americans in their respective areas.

For peace in the House and for equity to our two American territories, I urge the adoption of my amendment.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the distinguished gentleman from California.

Mr. BURTON. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA). As the author of this portion of the bill, and as chairman of the Territorial Subcommittee of the Committee on Interior and Insular Affairs, I commend the gentleman for finding a skillful way out of the paradox of the situation between the committees which in theory and in fact have jurisdiction in this area. Because of the jurisdictional phase, it is only because of the leadership given us by the gentlewoman from Oregon (Mrs. GREEN), along with the assistance of the gentleman from Hawaii that perhaps this long overdue step will be taken.

Again I commend the gentleman, and urge the adoption of his amendment.

Mr. MATSUNAGA. I thank the gentleman for his most generous remarks and for his expressed support of my amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, I believe that all of the Members know the substance of the amendment offered by the gentleman from Hawaii, and I wholeheartedly support and commend the gentleman from Hawaii for acting as the peacemaker, and finding a way out of a dilemma.

I hope that this amendment will be adopted.

Mr. MATSUNAGA. I thank the gentlewoman from Oregon for her kind remarks and for her most helpful support of my amendment. I commend her too for the prominent role she has played in trying to bring about an amicable solution to the jurisdictional dispute which has arisen. Mr. Chairman, I urge the adoption of my amendment.

Mr. DELLENBACK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Hawaii.

Mr. Chairman, it is with real reluctance that I do rise to oppose the amendment, but I do so only after commending the gentleman from Hawaii for what really is an excellent attempt at peacemaking, which certainly is to be commended.

I believe it is extremely important, Mr. Chairman and colleagues, that the College of the Virgin Islands and the University of Guam be classified as land-grant colleges. I believe this is a very desirable move in education. It is not just a case of these particular dollars. Actually there are a series of acts that apply to land-grant colleges. There is the Agricultural Experimental Station Act, the agricultural research provision, there are cooperative extensions, there are other provisions in other educational bills which do apply to land-grant colleges.

It is my understanding that the Committee on Agriculture actually has before it a bill dealing with applying the status of land-grant colleges to these two particular institutions, the College of the Virgin Islands and the University of Guam.

I think that, in our desire to see that these institutions receive early benefits of the nature that is here provided in dollars, we may make a serious mistake in the long run. Some of us would have hoped that this bill would have contained the provision that was in this basic title and this point of order had not been made, so that the status of land-grant colleges would really rest on the shoulders of these institutions. But that is not here the case.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I think that all of us concur with the gentleman from Oregon in that we would have preferred to have the title in the bill as it was written by the committee. But in view of the point of order it seemed to us that it would be very difficult to justify the continual denial of the right of these two institutions who educate American citizens, to have at least some of the benefits of land-grant status.

In discussing this matter with the chairman of the House Committee on Agriculture he advised me that one of the difficulties he felt that this bill encountered in his committee was the cost factor.

So I believe that the passage of this amendment offered by my colleague, the gentleman from Hawaii (Mr. MATSUNAGA) taking care of the funding of these two institutions out of the Department of Health, Education, and Welfare's budget, will pave the way for further consideration by the House Committee on Agriculture in subsequent sessions to clarify this matter, and convey full land-grant status to these two colleges without any additional cost.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I wonder if we might take this time to have a limitation on debate.

Mr. Chairman, I ask unanimous consent that all debate on this title close in 10 minutes.

Mr. GOODLING. Mr. Chairman, I object to the limitation of time. I can assure you I am going to be brief, but I do not want to be limited in time for debate.

Mr. DELLENBACK. Mr. Chairman, may I say to the chairman of the subcommittee, that I do not know of anyone else on our side who is going to speak.

I might state that my interest is the long-range basic best interest of the University of Guam and the College of the Virgin Islands.

It is my concern that if we take this act now in an attempt to give them some benefit, we have no assurance, even if we authorize this proposal, that they will have funding under this authorization.

If you really want this benefit to reach these two institutions, I would urge the fastest possible action on their classification as land-grant colleges so that when we do move forward with funding for land-grant colleges, which surely we are going to be moving forward at the appropriate time, these colleges and universities will share in the benefits.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman.

Mr. MATSUNAGA. I agree with much of what the gentleman has said, but we are here and now faced with the fact that the point of order raised earlier against title XII was sustained. Consequently, we are unable under the provisions of the bill under consideration to extend the land-grant classification to the two institutions involved. The amendment which I have offered will grant the same benefits enjoyed by land-grant colleges to these two institutions without classifying them as land-grant colleges. I hope the gentleman will accept the amendment as the best solution under the circumstances.

Mr. DELLENBACK. Let me say in summary again, in reply to my colleague, the gentleman from Hawaii, that the point is it does not put them in the same status. If it did put them in the same status, then that would be a different thing.

But the very point I make is that it does not do so. It does not give them certain benefits which I think they ought to have. They do not get it this way and I am afraid we may short circuit that type of benefit for them if we take this step.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment close in 8 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mr. GOODLING. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, let me say first of all to my good friend, the gentleman from Hawaii, ordinarily I am a peacemaker, but on this particular occasion I was not on the peacemaking team. I knew nothing about it until yesterday.

I have here the bill, H.R. 11436, which is an exact duplication of section XII of this bill. This bill was referred to the Committee on Agriculture on October 27, 1971. The chairman of the Committee on Agriculture has assured interested persons that hearings would be held on this legislation.

Mr. Chairman, the amendment offered by the gentleman from Hawaii makes no substantive changes in the bill. It simply gives the colleges of Guam and the Virgin Islands $6 million out of Uncle Sam's right pocket instead of his left.

It uses the same go-around tactic that the committee bill employed—to go around the Agriculture Committee in order to give away $6 million more to these two schools.

I object not only to the tactics that have been used, but to the very idea behind this boondoggle.

Why should my taxpayers put up another $6 million for these schools when our schools in Pennsylvania and every other State could use the money as well? I realize that only $6 million is involved here. I sat on the floor of this House in 1961, I believe, when we established another new unit in Government. At that time we were assured that the $1 million would never grow, but in some mysterious way some leaven got into the mixture. I recall we have had appropriation bills for as high as $100 million for this same unit of Government.

I want the record clear, Mr. Chairman, that I have opposed these go-around tactics. I appeared before the Rules Committee, along with our colleague, the chairman of the Committee on Agriculture, Mr. POAGE, to oppose this action.

I am sorry that he could not be here today for this debate. I include in the RECORD his statement before the Rules Committee.

Mr. POAGE's statement is as follows:

STATEMENT OF MR. POAGE ON H.R. 7248, THE HIGHER EDUCATION ACT OF 1971

Mr. Chairman, I am here today on behalf of the Committee on Agriculture to object to the inclusion of Title XII of the committee amendment to H.R. 7248.

This title deals with the designation of the schools in Guam and the Virgin Islands as land-grant colleges. The question of approving land-grant colleges on the Islands of Guam and the Virgin Islands has been considered by House Committees for the past two Congresses. During the 90th Congress two bills, H.R. 17942 and H.R. 17943, were referred to the Interior Committee, but no action was taken on this proposed legislation.

However, in the 91st Congress two committees of the House and two committees in the Senate got involved in this question.

In the First Session of the 91st Congress two bills, H.R. 105 and H.R. 106, dealing with this issue were again introduced and referred to the House Committee on Interior and Insular Affairs. These bills amended the Organic Acts of both Guam and the Virgin Islands. A subcommittee of that committee proposed to amend these bills by amending the Morrill Act, the Bankhead-Jones Act, and six other agricultural statutes over which the Committee on Agriculture has jurisdiction. The Morrill Acts of 1862 and 1890 are the basic laws establishing land-grant colleges.

When the Committee on Agriculture learned of the action of the Interior and Insular Affairs Committee, the staff of the Agriculture Committee consulted with the Parliamentarian of the House and was informally advised that the proposed committee amendment would be subject to a point of order as not being germane to the bill as originally drafted and referred to the Interior Committee.

In the meantime, a similar bill, S. 1148, was introduced in the Senate and referred to the Senate Committee on Interior and Insular Affairs. That committee approved the bill and reported it to the Senate. It then was referred to the Senate Agriculture and Forestry Committee. The Senate Agriculture Committee further amended and approved the bill. It then was passed by the Senate.

The Senate bill, S. 1148, was referred to the House Committee on Agriculture on September 14, 1970. Hearings were held before the Subcommittee on Department Operations and several witnesses appeared.[1]

On December 10, 1970, the Subcommittee on Department Operations held an executive session on the bill, and after a discussion of the merits, a motion to report the bill to the full committee was defeated.

Near the end of the Congress, the Senate then attached the text of S. 1148 to a House-passed wine bill, H.R. 14169. It was, however, too late in the session for a conference.

The Committee on Agriculture has attempted to fulfill its responsibilities in considering this legislation.

We believe that if other committees can take jurisdiction away from a committee simply because the committees interested in legislation don't approve of the action taken by the committee having jurisdiction, it will create chaos in the House.

The bill before you for consideration, H.R. 7248, has included in Title XII specific provisions for constituting the College of the Virgin Islands and the University of Guam as land-grant colleges. It proposes to amend the following specific statutes within the jurisdiction of the Committee on Agriculture:

1. The first Morrill Act (The Act of July 2, 1862).
2. The second Morrill Act (The Act of August 30, 1890).
3. The Bankhead-Jones Act (The Act of June 29, 1935).
4. The Act of March 4, 1940.
5. The Agricultural Marketing Act of 1946.
6. The Act of May 8, 1914.
7. The Act of October 10, 1962.
8. The Act of August 11, 1955.

When I learned of the action taken by the Subcommittee on Education, I wrote a letter to the Honorable Edith Green on April 30, 1971, a portion of which follows:

"It is our feeling that the jurisdiction of the Morrill Act, the Hatch Act, and the other statutes proposed to be amended by this legislation, are within the jurisdiction of the Committee on Agriculture. In the last session of Congress hearings on S. 1148 were held by the Subcommittee on Departmental Operations, chaired by the Honorable Eligio de la Garza, and in executive session a motion to favorably report the bill to the full committee failed. Whether this was a wise decision or not, we have tried to follow the rules of procedure.

"It seems to us that it would break down all orderly procedure if jurisdiction of legislation could be shifted from one committee to another simply by including a reference to some matter over which the committee does have jurisdictions. In the last Congress we could, for instance, have included authorization for the expenditure of funds to assist higher education in the Agricultural Act of 1970 had we felt this to be an acceptable procedure.

"We realize that there is considerable support for such a bill. Maybe it should be passed, but it seems to me to be a bad precedent to turn to another committee when the committee having original jurisdiction renders an unfavorable judgment.

"I have assured representatives of both Guam and the Virgin Islands that should they get someone to again sponsor this legislation and have it referred to the Committee on Agriculture, we would be glad to grant them another hearing."

Mr. Chairman, there are some things in the education laws that I don't like. If the Committee on Education and Labor is successful in amending agricultural legislation, then why cannot, for example, the Committee on Agriculture tie on sections in agriculture bills amending education legislation, or labor legislation, or tax legislation, or the banking regulations? It would seem that in order to prevent chaos and to continue the even flow of legislation through the committees having proper jurisdiction over legislation, orderly jurisdictional procedure should be observed.

[1] See Report made by Honorable G. V. "Sonny" Montgomery for the Committee relative to investigation of the Island of Guam.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. My amendment is intended merely to bring equity to these two areas of Guam and the Virgin Islands, which are the only two areas in the whole United States—and I will remind the gentleman that these are territories of the United States—which do not have the benefits of a land-grant college. Every other area, including the gentleman's State has.

Pennsylvania State University enjoys a outright grant of $6.8 million annually under the land grant allocation. I could go on. Texas A&M, $9 million; Cornell, $6.3 million; Illinois University, $9.7 million, and so on. There are 68 land-grant colleges throughout the United States, including the University of Hawaii, which received $178 million in fiscal 1970, at an average of $2,500,000 each.

Mr. GOODLING. Before my time expires, I should like to ask the gentleman from Hawaii whether he can justify a land-grant college in the District of Columbia.

Mr. MATSUNAGA. The House has already acted upon that issue after due deliberation. It is not for me to rule on the justifiability of past actions of this House.

Mr. GOODLING. It was granted by the back-door method, just as you are attempting to do here.

Mr. MATSUNAGA. I will remind the gentleman that in this amendment we are not amending any agricultural act. It is for this reason that the Committee on Education has jurisdiction over this matter, as the gentleman well knows. If it were to amend the Morrill act or any other agricultural act, the jurisdiction would properly belong to the Committee on Agriculture. The Chair has already ruled.

I ask that the amendment be approved.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, this issue has been before the committee long before I became chairman. To say that the Virgin Islands and Guam are not entitled to these benefits in lieu of land-grant college status is not realistic. In comparison to what is received in other areas in the amounts proposed are minimal. These areas and instutitions deserve equitable treatment, and this is the best way that we can possibly approach the problem.

I do not know how long it would take the Committee on Agriculture to act, but let me state to the members of the Committee on Agriculture that Chairman POAGE and I both understood that the point of order would be sustained, and Chairman POAGE did not have any objection to the amendment being offered by the gentleman from Hawaii. I urge all Members to support the amendment.

The Chairman. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN) to close the debate on this amendment.

Mrs. GREEN of Oregon. Mr. Chair-

man, I do think it is important to understand that the chairman of the Committee on Agriculture worked this out with the gentleman from Hawaii and did approve of the amendment which has been offered by the gentleman from Hawaii (Mr. MATSUNAGA).

At the present time students from Guam and the Virgin Islands can come to the States and go to school. They have to pay out-of-State tuition, which is very high. It seems to me the gentleman from Hawaii made a very valid point in terms of equity, that if we can strengthen the colleges and universities in Guam and the Virgin Islands and other places, we will give these youngsters a chance to obtain a good education at home.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA).

TELLER VOTE WITH CLERKS

Mr. GOODLING. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. GOODLING. Mr. Chairman, I demand tellers with Clerks.

Tellers with Clerks were ordered; and the Chairman appointed as tellers Mr. MATSUNAGA, Mr. DELLENBACK, Mrs. GREEN of Oregon, and Mr. GOODLING.

The committee divided, and the tellers reported that there were—ayes 220, noes 158, not voting 53, as follows:

[Roll No. 350]

[Recorded Teller Vote]

AYES—220

Abourezk	Coughlin	Hawkins
Abzug	Culver	Hechler, W. Va.
Adams	Daniels, N.J.	Helstoski
Addabbo	Danielson	Hicks, Mass.
Albert	Davis, Ga.	Hicks, Wash.
Alexander	Dellums	Holifield
Anderson, Calif.	Denholm	Howard
	Dent	Hungate
Anderson, Ill.	Dingell	Jacobs
Anderson, Tenn.	Donohue	Jones, N.C.
	Drinan	Karth
Annunzio	Dulski	Kastenmeier
Ashley	du Pont	Kazen
Aspin	Dwyer	Kemp
Badillo	Eckhardt	Kluczynski
Begich	Edmondson	Koch
Bell	Edwards, Calif.	Kuykendall
Bennett	Eilberg	Kyros
Bergland	Evans, Colo.	Landrum
Bevill	Evins, Tenn.	Leggett
Biaggi	Fascell	Link
Biester	Fish	Long, Md.
Bingham	Flood	McClory
Blatnik	Flowers	McCloskey
Boggs	Foley	McCormack
Boland	Ford, William D.	McDade
Bolling		McDonald, Mich.
Bow	Forsythe	
Brademas	Fraser	McFall
Brasco	Fulton, Tenn.	McKevitt
Brooks	Galifianakis	McKinney
Brown, Mich.	Garmatz	Madden
Buchanan	Gaydos	Matsunaga
Burke, Mass.	Giaimo	Mazzoli
Burton	Gibbons	Meeds
Byrne, Pa.	Gonzalez	Melcher
Byron	Grasso	Metcalfe
Caffery	Green, Oreg.	Mikva
Carey, N.Y.	Green, Pa.	Miller, Calif.
Casey, Tex.	Griffiths	Mills, Ark.
Cederberg	Grover	Minish
Celler	Gude	Mink
Chisholm	Hamilton	Mitchell
Clark	Hammer-schmidt	Mollohan
Clausen, Don H.		Moorhead
	Hanley	Morgan
Clay	Hanna	Moss
Cleveland	Hansen, Wash.	Murphy, Ill.
Collier	Harrington	Murphy, N.Y.
Collins, Ill.	Harsha	Natcher
Corman	Hathaway	Nedzi
Nelsen	Roe	Stephens
Nix	Roncalio	Stokes
Obey	Rooney, N.Y.	Stratton
O'Hara	Rooney, Pa.	Stubblefield
O'Konski	Rosenthal	Symington
O'Neill	Rousselot	Taylor
Patman	Roy	Teague, Tex.
Patten	Roybal	Thompson, N.J.
Pepper	Runnels	Thomson, Wis.
Perkins	Ryan	Thone
Pettis	St Germain	Tiernan
Peyser	Sarbanes	Ullman
Pickle	Saylor	Van Deerlin
Pike	Scheuer	Vanik
Podell	Sebelius	Waldie
Preyer, N.C.	Seiberling	Wampler
Price, Ill.	Shipley	Whalen
Pryor, Ark.	Sikes	White
Pucinski	Slack	Widnall
Quillen	Smith, Iowa	Winn
Rangel	Staggers	Wyatt
Reid, N.Y.	Stanton, James V.	Yates
Rhodes		Zablocki
Riegle	Steiger, Ariz.	Zwach
Rodino	Steiger, Wis.	

NOES—158

Abbitt	Frey	Passman
Abernethy	Fuqua	Pelly
Andrews, Ala.	Gettys	Poff
Andrews, N. Dak.	Goldwater	Price, Tex.
	Goodling	Purcell
Archer	Gray	Quie
Arends	Griffin	Railsback
Ashbrook	Gross	Randall
Betts	Haley	Rarick
Blackburn	Hall	Roberts
Bray	Harvey	Robinson, Va.
Brinkley	Hastings	Robison, N.Y.
Broomfield	Hays	Rogers
Brotzman	Heckler, Mass.	Rostenkowski
Brown, Ohio	Heinz	Roush
Broyhill, N.C.	Henderson	Ruppe
Burke, Fla.	Hillis	Ruth
Burleson, Tex.	Hogan	Sandman
Burlison, Mo.	Horton	Satterfield
Byrnes, Wis.	Hull	Scherle
Camp	Hunt	Schmitz
Carter	Hutchinson	Schneebeli
Chamberlain	Ichord	Schwengel
Chappell	Johnson, Pa.	Scott
Clancy	Jonas	Shoup
Clawson, Del	Jones, Ala.	Shriver
Collins, Tex.	Keating	Smith, Calif.
Colmer	Keith	Snyder
Conable	King	Spence
Conte	Kyl	Springer
Cotter	Landgrebe	Steele
Daniel, Va.	Latta	Sullivan
Davis, S.C.	Lennon	Talcott
Davis, Wis.	Lent	Teague, Calif.
de la Garza	McCollister	Terry
Delaney	McKay	Thompson, Ga.
Dellenback	McMillan	Veysey
Devine	Macdonald, Mass.	Waggonner
Dickinson		Ware
Dorn	Mahon	Whalley
Dow	Mann	Whitehurst
Dowdy	Mathias, Calif.	Whitten
Downing	Mathis, Ga.	Wiggins
Duncan	Mayne	Williams
Edwards, Ala.	Michel	Wolff
Erlenborn	Miller, Ohio	Wydler
Esch	Mills, Md.	Wylie
Eshleman	Minshall	Wyman
Findley	Mizell	Yatron
Fisher	Monagan	Young, Fla.
Flynt	Morse	Young, Tex.
Ford, Gerald R.	Mosher	Zion
Fountain	Myers	
Frenzel	Nichols	

NOT VOTING—53

Aspinall	Halpern	Powell
Baker	Hansen, Idaho	Rees
Baring	Hébert	Reuss
Barrett	Hosmer	Sisk
Belcher	Jarman	Skubitz
Blanton	Johnson, Calif.	Smith, N.Y.
Broyhill, Va.	Jones, Tenn.	Stanton, J. William
Cabell	Kee	
Carney	Lloyd	Steed
Conyers	Long, La.	Stuckey
Crane	Lujan	Udall
Dennis	McClure	Vander Jagt
Derwinski	McCulloch	Vigorito
Diggs	McEwen	Wilson, Bob
Edwards, La.	Mailliard	Wilson, Charles H.
Frelinghuysen	Martin	
Gallagher	Montgomery	Wright
Gubser	Pirnie	
Hagan	Poage	

So the amendment was agreed to.

The CHAIRMAN pro tempore. For what purpose does the gentleman from Wyoming rise?

Mr. RONCALIO. Mr. Chairman, I ask unanimous consent to offer an amendment to title XI.

The CHAIRMAN pro tempore. The gentleman from Wyoming asks unanimous consent to return to title XI for the purpose of offering an amendment thereto.

Is there objection to the request of the gentleman from Wyoming?

Mr. STEIGER of Wisconsin. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XIII—EVALUATION

SEC. 1301. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

"TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"SEC. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practice as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration (with respect to Federal education programs), and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. Are

there amendments to be proposed to title XIII? If not, the Clerk will read.

The Clerk read as follows:

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve equality will require far more dependable knowledge about the process of learning and education than now exists or can be expectd from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF A NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1404. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this title the term "educational research" includes but is not limited to research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1409 for a fiscal year shall be expended to carry out this title through grants to or contracts with qualified public or private agencies or individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out purposes of this title. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code, except that (1) to the extent that the Secretary deems such action necessary to recruit men and women of exceptional talent he may establish the entrance grade for personnel at a level up to two grades higher than the grade level provided for by such personnel under the General Schedule established by such title, and fix their compensation accordingly, and (2) to the extent the Secretary deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to the civil service or classification laws: Provided, That personnel appointed under this clause do not exceed at any one time one-third of the number of full-time, regular technical or professional employees of the Institute.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research, and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section;

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title, and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is authorized without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions.

(f) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, Territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as he deems necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed

by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waive any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. GROSS. Mr. Chairman, I make a point of order against title XIV inasmuch as it invades the jurisdiction of the House Post Office and Civil Service Committee.

Mr. Chairman, this title, on pages 220 and 222 and 223, includes authorizations for the Secretary of Health, Education, and Welfare to recruit men and women of certain talent, and establishes entrance grades for personnel at levels up to two grades higher than the grade levels provided for under the general schedule, and authorizes the Secretary to appoint personnel of the National Institute of Education without regard to the Civil Service or classification laws.

The lanaguage in title XIV also authorized the President to appoint a National Advisory Council on Education, Research and Development, and it authorizes the Council to employ and fix the compensation of such personnel as may be necessary to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to the classification of positions and the General Schedule rates of pay.

Clause 15 of rule XI of the Rules of the House of Representatives provides that the Committee on Post Office and Civil Service shall have jurisdiction over all matters relating to the Federal civil service.

The civil service laws, the classification laws, and the laws relating to the General Schedule all pertain to title 5, United States Code, and are clearly under the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, Mr. Chairman, my point of order against title XIV is based on the fact that it contains matters that are clearly and wholly within the jurisdiction of the House Committee on Post Office and Civil Service. There can be no claim or pretense on the part of the House Committee on Education and Labor to jurisdiction in these matters.

Mr. Chairman, I insist that my point of order be sustained.

The CHAIRMAN pro tempore. Does the gentleman from Indiana (Mr. BRADEMAS) desire to be heard on the point of order?

Mr. BRADEMAS. I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order.

First, Mr. Chairman, I oppose the point of order made by the gentleman from Iowa on the basis that the scope of his point of order is much too broad. The intent of the rule adopted for consideration of the bill now under consideration is to provide that any "titles, parts, or sections" of the bill would be subject to a point of order where the subject matter jurisdiction was in question. In this case, Mr. Chairman, the personnel exemptions to the civil service laws are the only matters in question with respect to jurisdiction.

I contend, therefore, that the question of the point of order should be directed to those provisions with respect to which there is a question of jurisdiction, and not to the entire title.

Second, Mr. Chairman, with regard to the jurisdiction question, legislation to establish a National Institute of Education was introduced in the House during the 91st, and again during the 92d Congresses. In each instance the bills were referred to the Committee on Education and Labor. Extensive hearings were held over a period of 2 years, and at no time was the jurisdictional question raised. I suggest, therefore, Mr. Chairman, that this bill is clearly within the jurisdiction of the Committee on Education and Labor, and germane to the bill before this Chamber.

Third, Mr. Chairman, the specific provisions of concern to which the gentleman from Iowa makes reference have been a part of this legislation since the date of its introduction to the House 2 years ago. The only change made by the Committee on Education and Labor was to limit the number of exemptions from the civil service laws.

Therefore, Mr. Chairman, I hope that the point of order is overruled.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is prepared to rule.

The gentleman from Iowa makes a point of order against title XIV. The Chair has examined the title, and has found that the language in section 1405, and in section 1406 invades the jurisdiction of the Committee on Post Office and Civil Service.

Under the provisions of House Resolution 661 under which the Committee of the Whole is considering this bill, it is provided that all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives shall be subject to a point of order.

The gentleman from Iowa has directed his point of order, not just to the sections on pages 220 through 223, but to the whole title.

Under the rule, the point of order in this case must be sustained against the whole title, and the entire title is thus stricken.

AMENDMENT OFFERED BY MR. BRADEMAS

Mr. BRADEMAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRADEMAS: On page 217, line 7, insert the following:

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1404. (a) The Director, through the Institute, shall conduct educational reseach;

collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants of technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1408 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

Sec. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

Sec. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section; and

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each yar; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessors was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

Sec. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as deemed necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursements. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5a). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

Sec. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waiver any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

Sec. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

Mr. BRADEMAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I shall explain the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GROSS. Mr. Chairman, reserving the right to object, is the gentleman putting the language back with respect to the invasion of the jurisdiction of the House Committee on Post Office and Civil Service?

Mr. BRADEMAS. I may respond to the gentleman from Iowa that the gentleman from Indiana is not doing that. The gentleman from Indiana is offering an amendment which provides language contained in the bill under consideration with respect to the National Institute of Education, without any of the language to which the gentleman from Iowa was making reference to on the ground that it invaded the jurisdiction of the Civil Service and Post Office Committee.

Mr. GROSS. Mr. Chairman, with the assurance of the gentleman from Indiana that what has just been accomplished is not in this amendment that he offers, I withdraw my reservation of objection.

Mr. BRADEMAS. I am pleased to give the gentleman from Iowa that assurance.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. DELLENBACK. Mr. Chairman, reserving the right to object, may I direct a question to my colleague, the gentleman from Indiana?

Mr. BRADEMAS. Yes.

Mr. DELLENBACK. Are you saying to my colleague, the gentleman from Iowa, that the amendment which you are proposing is the language of the bill shy sections 1405 and 1406?

Mr. BRADEMAS. I am saying to the gentleman from Oregon and the gentleman from Iowa that the amendment I am offering is shy of the language which invades the jurisdiction of the Committee on Post Office and Civil Service.

Mr. DELLENBACK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana (Mr. BRADEMAS) is recognized.

Mr. BRADEMAS. Mr. Chairman, I shall be very brief.

The purpose of my statement has already been made clear in my colloquy with the gentleman from Iowa and the gentleman from Oregon. The amendment provides for the establishment of a National Institute of Education in the Department of Health, Education, and Welfare for the purpose of improving the processes of teaching and learning in the United States.

I might say in this respect, Mr. Chairman, that the bill under consideration contained in my amendment is the measure which President Nixon proposed in his message to Congress of March 3, 1970, on education reform in which the President urged the creation of a National Institute of Education, in the words of the President, as a "focus for educational research and experimentation." Again to quote President Nixon—

> We are not getting as much as we should out of the dollars we spend.

The President called for a searching reexamination of our entire approach to learning.

I might say that this bill has had strong bipartisan support. The members of the Select Subcommittee on Education on both sides of the aisle made a significant contribution to it. The measure also enjoyed widespread support from both sides of the aisle in the full Committee on Education and Labor.

I would like to express my appreciation for the strong support given this measure by the chairman of the Education and Labor Committee, Mr. PERKINS, and the ranking Republican on the committee, Mr. QUIE. My colleagues on the subcommittee Mrs. MINK, Mr. MEEDS, Mr. SCHEUER, Mr. CLAY, Mr. O'HARA, Mr. REID of New York, Mr. HANSEN, Mr. PEYSER, and Mr. KEMP, have devoted many hours to studying this measure and their support is deeply appreciated.

Mr. Chairman, I hope very much that this measure will win the strong support of Members on both sides of the aisle.

Mr. REID of New York. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, in his message on educational reform in March 1970, President Nixon proposed that the Nation establish a National Institute of Education to conduct basic and applied educational research both within the Institute and by contract with universities and other organizations. In the face of growing public disenchantment with schools and increasing resistance to tax levies substantial efforts have been made by the Congress to institute educational reform.

Federal money has been voted to assist schools with construction, improve educational programs, and strengthen educational administration. The Congress has given high priority to public education, yet it is apparent that the influx of additional Federal money into the schools has scarcely dented the problem. We have come to rely on a strategy of doing more of the same—more money for staff training and curriculum development, more money for special groups, special objectives and for different age levels.

It is a sad fact, Mr. Chairman, that out of our tremendous national investment in education, less than one-third of 1 percent goes to research and development, and the proportion is steadily diminishing. The Institute, Mr. Chairman, will be a focal point for a broad range of new people interested in educational reform. It will provide new stability for research policies so that plans can be implemented and results obtained. It will provide new visibility to the Nation's research effort in education. It will make possible a policy to attract first-rate people so that we can build highly competent staffs that can advise and help on the question of exactly what education is doing.

For a long time we have needed thoughtful, first-rate research on the meaning of education, with appropriate dissemination to educators throughout the country.

Since enactment of the Cooperative Research Act in 1956, research has made a disappointingly small impact on educational practice in America. Although Federal research support has increased the amount of research work in education, the inability of those still small efforts to make a visible dent on the tremendous problems facing educators today looms much larger than their limited accomplishments. Important gaps in our understanding of the learning process remain. We still cannot tell what methods will work with what children, or why. We still know relatively little about motivation, about what turns students on, or about the relevance of curricula. Moreover, we are just beginning to learn of the critical importance of early childhood education between the ages of 1 and 5 when the rate of learning may be at its peak.

Good research findings gather dust on the shelves for lack of an effort to translate concepts into classroom techniques. In the absence of strong Federal direction, too much research has dwelled on the inconsequential, too little on the major crises troubling our schools.

Mr. Chairman, it should be clear that the disappointing record of education research is the result of a curious neglect for this important function. We can ill afford to be cavalier about systematic efforts to invent and implement better ways of educating—the sooner we get down to serious work—the sooner we can begin to see results. Establishing a National Institute of Education represents the critical first step down that road. I urge my colleagues not to turn their backs on this opportunity to establish strong institutional leadership in educational research and development. Without the help of research and development, American education can only look forward to more of the same. For too many Americans, that just is not enough.

I will be happy to yield to the distinguished ranking member of the Committee on Education and Labor (Mr. QUIE).

Mr. QUIE. I thank the gentleman for yielding. I strongly support the inclusion of this title in the act. To me this may be the most important title. If the research turns out as I expect it will, this will prove to be the most important title.

Quoting the President, he said:

> We must stop pretending we understand the mystery of the learning process.

I believe if we are going to get at that, we must give the kind of leadership to research in education that some time ago was given to research in health at the National Institutes of Health. The only way we will do it is with the proposed National Institute of Education.

Mr. REID of New York. I thank the gentleman for his comments.

Mr. Chairman, I yield back the balance of my time, and I urge support for the amendment.

Mr. SCHERLE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, earlier I filed an amendment at the desk which would have eliminated title XIV from the bill. This provision simply opens up the Federal Treasury to the same educational researchers without any assurance that the quality of education would be improved.

The Office of Education in the last 10 years has spent approximately $1 billion in educational research. Most of this was contracted out to various educational research organizations. Under this bill all that would happen would be that a new organization, the National Institute of Education, would be created to do the same thing which is being done now. In other words, the same people who have been doing most of the projects would still be funded. The only obvious changes would be items such as the title on the door and the agency names on new stationery.

There is no protection in this bill which would limit the number of employees which this agency could hire. There is not even a limit as to the amount of money which the agency could have appropriated. This new bureaucracy could hire 1,000 or 10,000 people and pay them whatever they want.

The best solution to the present problem would be a genuine overhaul, not a new governmental agency.

Educational research is now operated under the Commissioner of Education. Under this bill the new agency would be under the Secretary of Health, Education, and Welfare, another bureaucratic responsibility, and they cannot handle what they have now.

How is it an improvement in educational research to bypass the Commissioner of Education? Even the administration's proposal placed this new institution under the Commissioner of Education.

By defeating this amendment, the House will have an opportunity to reject the concept that the way to solve problems is to recast an old agency with a new name and increase its size and scope with the same people who run the old program, with additional waste of time and effort.

I ask that the amendment be defeated.

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from New York.

Mr. REID of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would say the gentleman is correct. We have spent $1 billion on research.

Mr. SCHERLE. If the gentleman will pardon me, the figure is $1 billion.

Mr. REID of New York. That is what I said. The gentleman is correct. We have spent $1 billion on research on education. But is the gentleman aware that we have spent in the same period $7 billion in research on agriculture, and $14 billion on health research, and the aircraft industry alone spends about $5 billion on research each year. Should we not spend at least that on education?

Mr. SCHERLE. At least the money spent on agriculture was spent under the Department of Agriculture and not taken out by the Department, as the Commissioner on Education has had done. We have all had intolerable experiences as far as the Department of HEW is concerned and to take this provision out from under the Commissioner of Education and place it solely under that incompetent agency would be a sad mistake.

Mr. Chairman, I ask that we vote down the amendment.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will take only 1 minute to urge the members of the committee to support the amendment. There was strong support in committee for the establishment of a National Institute of Education within the Department of HEW. In my judgment the proposal offers great promise.

Mr. Chairman, I urge support of the amendment.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there is really a great deal that could be said on this. I commend the gentleman from Indiana (Mr. BRADEMAS) and his colleague, the ranking minority member of the committee, the gentleman from New York (Mr. REID) for their outstanding work on the subcommittee which wrestled long and hard with this concept of a national institute. They have here wrestled with one of the great crying needs of this Nation—educational research in a coordinated manner. I could talk at quite some length about this particular title. It is a modest one. Like many other provisions of this bill do, it does not call for large sums of new money, particularly initially as we move forward. It is dealing with the same type of crisis, this time in education that we faced some years ago when we needed research in the health field, and we created the National Institute of Health.

We had a need in aeronautics and space, and we created the Aeronautics and Space Administration, and we had a need in science, and we created the National Science Foundation. This is really very needed. I urge support of the amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, the Office of Education has about $544 million in funds, not under any formula, to spend as it wants. Is it not also true they have spent hundreds of millions of dollars in research of various types in the Office of Education? Would the gentleman say that if the Office of Education had done its job, that the National Institute of Education would be required?

Mr. DELLENBACK. If I may respond to that, I would say it in two ways. First, I am certain there have been through the years a series of programs in which the Office of Education has not measured up to the responsibilities that this Congress sought to place upon its shoulders. This goes back a great many years.

But still, even if that job had been done as the Congress had sought to place it upon those shoulders when various programs were created, I feel this sort of concentrated attention of personnel and of effort in the future would nevertheless be called for.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not see this as one of the crucial issues in the bill before us. I do, however, want to call to the attention of the Members of the House that in the field of higher education this probably has one of the lowest priorities.

The Office of Education has had over a period of years many hundreds of millions of dollars for research. Let me give an example. There was a grant given to a corporation here in Washington for $900,000, to find out if young people, college students, could gather accurate survey information. The Office of Education did not want new information. They had already sent out paid professionals to gather the information. They only wanted to find out if the students could gather accurate information.

That experiment cost $900,000. I told one reporter, that if they had come to me, for $1.50 I could have told them that some students would be able to and some would not.

After that contract was given and after $900,000 was spent, the HEW audit itself questioned items amounting to $283 million.

This corporation asked for renewal of the contract for the year 1971, and they asked that it be given on a sole source bid. In addition, they asked that the second audit be postponed. The Secretary of HEW obliged. He recommended to the Small Business Administration that it be on a sole source bid and they gave it to the Small Business Administration. That occurred before the audit for the previous year, in which $283,000 was questioned.

There are any number of other contracts which in my judgment show there is no consideration for the expenditure of funds.

If you will look at the language of NIE, you will find there has never been such broad language. There is nothing the NIE can do that the Office of Education cannot do, and there is nothing the Office of Education cannot do that the Office of NIE is not going to be doing.

I think that the action yesterday showed the lack of confidence of this Congress in the Department of HEW, when we talked about political interns. I share those views.

I am not going to argue long on this, but it does seem to me that in the Health, Education, and Welfare Department we have a National Institute of Health. Would you then advocate that we set up an Office of Health?

We have an Office of Education. Why do we need a National Institute of Education? Supposedly the purpose is to enable them to do research and duplicate the work already being done in the Office of Education.

May I just suggest that in my judgment if you want to save money, if you want to put money into the colleges and universities, if you want to improve education, and if you are going to cut funds this is the place to cut them.

Mr. QUIE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, on the health side of HEW there is a Public Health Service and a National Institute of Health. I do not believe anybody advocates that we put the National Institute of Health under the Public Health Service.

What the gentlewoman said about the Office of Education is true. I recall when an individual—I will not mention his name—came here to head cooperative research under one of the two previous administrations, and said that nothing good had happened prior to that. When he left the Office of Education he left in disappointment.

I do not believe we are going to have the most effective research program if we leave it under the Office of Education. I believe we need a National Institute of Education in order to accomplish it. This is what the administration is asking for.

The administration is asking for a National Institute of Education in order to separate this from the operation of the Office of Education.

We spend too little on research in education and the learning process. We know so little about it.

Just a little while ago we passed a child development bill. It is in conference now. We are having a hard time agreeing on that bill.

One of the problems on many ventures in education is that we do not really know enough about the learning process. The research has not been accomplished.

It is something like trying to find a cure for cancer. We cannot ask the doctors to cure cancer unless we conduct the research to tell them how to do it.

That is the really severe problem in education. We have severe problems that we once ignored. Once the children could go out to work without an education, but they need to be literate and they need skills to hold jobs. We just do not know how best to do this.

Something could be advocated other than to let the Office of Education run the research, but nobody has come up with a recommendation. The only recommendation I have seen so far, which seems to make sense to me, is the National Institute of Education. That is why I ask for adoption of the amend-

ment offered by the gentleman from Indiana (Mr. BRADEMAS.)

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I would not be quite as concerned about setting up an entirely new agency in the executive department if we had a provision in this title which said we would phase out research in the Office of Education.

To the best of my recollection, there is no provision in this title that says because now we are going to finance the NIE that we will phase out the research funds in OE. I suspect they will continue as they have and we will see hundreds of millions of dollars going down the drain while our schools decay before us.

Mr. QUIE. I want to remind you that the administration asked for $3 million for planning and development of the NIE for the first year. That indicates they want to spend money only to develop a sensible approach to planning so that they know what they want to do and not now repeal the authority and put it into the NIE and jump headlong into the program. We have jumped headlong into programs before, and we are not exactly sure of what we want to do in them. I think they will proceed slowly and be sure of their ground before they get into a full development of the NIE.

Mr. REID of New York. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. REID of New York. In further reference to what the gentleman is saying, President Nixon in his message to the Congress on the National Institute of Education said:

> Until we know why education works when it is successful, we can know little about what makes it fail when it is unsuccessful. This is knowledge that must precede any rational attempt to provide our every student with the best possible education.

The President's position is correct, and it is vital for this program.

I hope the amendment will be supported.

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I want to associate myself with the remarks in support of the amendment to include the NIE. Am I correct in my recollection that the inclusion of the NIE as a title in the higher education bill was passed unanimously in both the subcommittee, as well as the full committee?

Mr. QUIE. Well, I am pretty certain it was unanimous in the full committee, but I cannot tell about the subcommittee.

Mrs. GREEN of Oregon. Will the gentleman yield?

Mr. QUIE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The bill did not come out of the Subcommittee on Higher Education. It was under a different subcommittee, and I do not know what the picture is on that, because I do not serve on that subcommittee. In the full committee I do not recall the vote, but I reserved the right to oppose this particular title on the floor.

Mr. MEEDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, not only have we had a paucity of educational research, not all of it good, I would tend to agree with the gentlewoman from Oregon, but we have not utilized properly what educational research we have.

I think one of the primary functions of the NIE is to be an umbrella agency, if you wish, over educational research being done in this country.

One of the great problems we have in the Office of Education is that they have it broken down so that educational research is being done by different departments. In some departments they do not know what the other departments are doing. Therefore, there is no coordination of the work or of the results and then a dissemination of these results to the areas that can properly utilize them.

We have the same thing happening in the States. By contracts through the Office of Education, educational research is being done all around this Nation, but that is not being properly backed up through the stream and into the place where it can be disseminated so that we do not end up doing the same kind of research all over the Nation.

A prime function of the NIE will be to provide the collection of data and dissemination of data so as to cut out some of the duplication.

Mr. BRADEMAS. Will the gentleman yield to me?

Mr. MEEDS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman from Washington.

I want to make only one other observation, Mr. Chairman, and that is that precisely, because the research and development effort that has been conducted and supported by the Office of Education over the years has not been as fruitful or as effective as it ought to be, that committee has provided for the establishment of a National Institute of Education that is not under the control either of the Office of Education or of the Commissioner of Education.

Most of the research activities now vested in the Office of Education will be transferred to the Institute. The National Institute of Education will assume responsibility for basic and applied research and development centers; Regional Education Laboratories; researcher training and experimental schools. The Office of Education will retain responsibility for education policy research relating to Office of Education programs, statistical gathering, some demonstration projects, and a modest share of dissemination activities serving both agencies. The Institute, however, will have principal responsibility for dissemination of the results of research.

Although the National Institute of Education would conduct a small amount of in-house research, most of its work would be performed by grant, contract, or other arrangement, by other agencies, institutions, and individuals.

Mr. Chairman, the proposed Institute would have the authority to carry on a broad range of research and development activities at every level of education, preschool through postgraduate school, within formal institutions of learning and in nonformal learning situations.

The new agency would be placed within the Department of Health, Education, and Welfare as an entity separate from the Office of Education and the Commissioner of Education. The distinct organizational identity of the Institute would permit it both the visibility and flexibility it requires to be effective.

Clearly, if educational research is to have an impact upon educational practice, the agency responsible for it must work effectively with other agencies engaged in educational programing or educational research. These include the Office of Education, the Office of Child Development, the National Institute of Child and Human Development, and the National Institutes of Health, all in the Department of Health, Education, and Welfare. Establishment of the Institute within this Department is therefore appropriate.

Yet it is also clear that only by separating the educational research and development effort from its present location within the Office of Education and from the direction of the Commissioner of Education can major gains be made in strengthening the effort:

A separate research and development agency is freer to foster approaches significantly different from existing institutional patterns than is an agency closely tied to those patterns through its major support functions.

Placing research and development in a separate agency allows that agency's leadership to adjust normal administrative patterns to fit the special character of a research and development agency.

A separate research and development agency can be attractive to highly creative and independent scholars who have difficulty operating in a normal bureaucratic setting.

Creating a separate agency for research and development makes it possible to assure greater stature to its leadership than is now possible.

Creating a separate agency assures that funds will be used for research and development and not diverted to what are essentially operating projects.

Finally, establishing an educational research and development agency outside the Office of Education, and from under the direction of the Commissioner of Education, will attract many excellent people who have been reluctant to deal with the research and development program of the Office of Education. Office of Education research has been plagued by a negative image—for management resulting in research of poor quality and of little substance; for failure to focus on genuine problems in education; and for insensitivity to any interests but those of the established educational leadership. A new agency outside the Office of Education, and from under the direction of the Commissioner of Education, can develop research and development programs responsive to each of these concerns.

Mr. Chairman, we have therefore sought to be responsive to the concerns that have been expressed in this regard. I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The question is on the amendment offered by

the gentleman from Indiana (Mr. BRADEMAS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 52, noes 50.

TELLER VOTE WITH CLERKS

Mr. ASHBROOK. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ASHBROOK. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mr. BRADEMAS, Mr. SCHERLE, Mr. REID of New York, and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 210, noes 153, not voting 68, as follows:

[Roll No. 351]

[Recorded Teller Vote]

AYES—210

Abourezk	Fish	Nedzi
Abzug	Foley	Nelsen
Adams	Ford, Gerald R.	Obey
Addabbo	Ford, William D.	O'Hara
Albert	Forsythe	O'Konski
Anderson, Calif.	Fraser	O'Neill
Anderson, Ill.	Frelinghuysen	Pepper
Andrews, N. Dak.	Frenzel	Perkins
Arends	Frey	Peyser
Aspin	Fulton, Tenn.	Pike
Badillo	Gallagher	Podell
Begich	Gibbons	Preyer, N.C.
Bell	Goldwater	Pryor, Ark.
Bergland	Goodling	Pucinski
Biester	Grasso	Quie
Bingham	Gray	Quillen
Blatnik	Green, Pa.	Railsback
Boggs	Grover	Rangel
Boland	Gude	Reid, N.Y.
Bolling	Hamilton	Rhodes
Bow	Hanley	Riegle
Brademas	Harrington	Robinson, Va.
Brasco	Harsha	Robison, N.Y.
Broomfield	Harvey	Rodino
Brotzman	Hastings	Roe
Brown, Mich.	Hathaway	Roncalio
Broyhill, N.C.	Hawkins	Rooney, Pa.
Buchanan	Hechler, W. Va.	Rosenthal
Burton	Heinz	Roush
Byrnes, Wis.	Helstoski	Roybal
Byron	Hillis	Ryan
Camp	Horton	St Germain
Carey, N.Y.	Howard	Sarbanes
Carter	Jacobs	Saylor
Cederberg	Karth	Scheuer
Chamberlain	Kastenmeier	Schneebeli
Chisholm	Keating	Schwengel
Clausen, Don H.	Keith	Seiberling
Clay	Kemp	Shipley
Cleveland	Kluczynski	Shriver
Collier	Koch	Smith, N.Y.
Collins, Ill.	Kyros	Snyder
Conable	Latta	Springer
Conte	Leggett	Staggers
Conyers	Lent	Stanton, James V.
Corman	Link	Steele
Culver	Long, Md.	Steiger, Wis.
Davis, Ga.	McCloskey	Stokes
Davis, Wis.	McCormack	Symington
Dellenback	McCulloch	Talcott
Dellums	McDade	Terry
Denholm	McDonald, Mich.	Thompson, N.J.
Dent	McFall	Thomson, Wis.
Dingell	McKevitt	Thone
Donohue	McKinney	Tiernan
Dow	Mailliard	Van Deerlin
Drinan	Mathias, Calif.	Vander Jagt
Dulski	Matsunaga	Vanik
Dwyer	Meeds	Veysey
Eckhardt	Melcher	Waldie
Edmondson	Metcalfe	Ware
Edwards, Calif.	Mikva	Whalen
Eilberg	Miller, Calif.	Whalley
Erlenborn	Miller, Ohio	Widnall
Esch	Mink	Wilson, Bob
Eshleman	Mitchell	Wolff
Evans, Colo.	Moorhead	Wydler
Fascell	Morgan	Wyman
Findley	Morse	Yates
	Moss	Zwach

NOES—153

Abbitt	Gonzalez	Pelly
Abernethy	Green, Oreg.	Pettis
Alexander	Griffin	Pickle
Andrews, Ala.	Gross	Poff
Annunzio	Haley	Powell
Archer	Hall	Price, Ill.
Ashbrook	Hammer-schmidt	Price, Tex.
Ashley	Hansen, Wash.	Purcell
Baring	Hays	Randall
Bennett	Heckler, Mass.	Rarick
Betts	Henderson	Reuss
Bevill	Hicks, Mass.	Roberts
Biaggi	Hicks, Wash.	Rogers
Blackburn	Hogan	Rooney, N.Y.
Bray	Holifield	Rostenkowski
Brinkley	Hull	Runnels
Brooks	Hungate	Ruth
Burke, Fla.	Hutchinson	Sandman
Burke, Mass.	Ichord	Satterfield
Burleson, Tex.	Johnson, Pa.	Scherle
Burlison, Mo.	Jonas	Schmitz
Byrne, Pa.	Jones, N.C.	Scott
Caffery	Kazen	Shoup
Casey, Tex.	Kuykendall	Sikes
Chappell	Landgrebe	Slack
Clancy	Lennon	Smith, Calif.
Colmer	McClory	Smith, Iowa
Cotter	McCollister	Spence
Crane	McEwen	Steed
Daniel, Va.	McKay	Steiger, Ariz.
Daniels, N.J.	McMillan	Stratton
Danielson	Mahon	Stubblefield
Davis, S.C.	Mann	Sullivan
de la Garza	Mathis, Ga.	Teague, Calif.
Delaney	Mayne	Teague, Tex.
Dorn	Mazzoli	Thompson, Ga.
Dowdy	Mills, Ark.	Ullman
Downing	Mills, Md.	Vigorito
Duncan	Minish	Waggonner
du Pont	Minshall	Wampler
Edwards, Ala.	Mizell	White
Fisher	Mollohan	Whitehurst
Flood	Monagan	Whitten
Flowers	Montgomery	Williams
Flynt	Murphy, Ill.	Winn
Fountain	Myers	Wyatt
Fuqua	Natcher	Yatron
Galifianakis	Nichols	Young, Fla.
Garmatz	Nix	Young, Tex.
Gaydos	Passman	Zablocki
Gettys	Patten	
Giaimo		

NOT VOTING—68

Anderson, Tenn.	Gubser	Michel
Aspinall	Hagan	Mosher
Baker	Halpern	Murphy, N.Y.
Barrett	Hanna	Patman
Belcher	Hansen, Idaho	Pirnie
Blanton	Hébert	Poage
Brown, Ohio	Hosmer	Rees
Broyhill, Va.	Hunt	Rousselot
Cabell	Jarman	Ruppe
Carney	Johnson, Calif.	Sebelius
Celler	Jones, Ala.	Sisk
Clark	Jones, Tenn.	Skubitz
Clawson, Del	Kee	Stanton, J. William
Collins, Tex.	King	Stephens
Coughlin	Kyl	Stuckey
Dennis	Landrum	Taylor
Derwinski	Lloyd	Udall
Devine	Long, La.	Wiggins
Dickinson	Lujan	Wilson, Charles H.
Diggs	McClure	Wright
Edwards, La.	Macdonald, Mass.	Wylie
Evins, Tenn.	Madden	Zion
Griffiths	Martin	

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XV—ETHNIC HERITAGE STUDIES

SEC. 1501. The Higher Education Act of 1965 is amended by inserting after title XIV the following new title:

"TITLE XV—ETHNIC HERITAGE STUDIES

"STATEMENT OF POLICY

"SEC. 1501. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all students in the elementary and secondary schools of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about their own ethnic heritages and to study the contributions to the Nation made by other ethnic heritages.

"ETHNIC HERITAGE STUDIES PROJECTS

"SEC. 1502. The Secretary is authorized to arrange through grants to institutions of higher education for the establishment and operation of a number of ethnic heritage studies projects. Each such project shall carry on activities related to a single ethnic heritage or a group of ethnic heritages.

"AUTHORIZED ACTIVITIES

"SEC. 1503. Each project provided for under this title shall—

"(1) develop curriculum materials for use in elementary and secondary schools which deal with the history, geography, society, economy, literature, art, music, drama, language, and general culture of the ethnic heritage or group of heritages with which the project is concerned, and the contributions of that ethnic heritage or group of heritages to the American heritage.

"(2) disseminate curriculum materials to permit their use in elementary and secondary schools throughout the Nation, and

"(3) provide training for persons using or preparing to use the curriculum materials developed under this title.

"ADMINISTRATIVE PROVISIONS

"SEC. 1504. (a) In carrying out this title, the Secretary shall assure that grantees utilize (1) the research facilities and personnel of museums and of institutions of higher education having a special knowledge of the ethnic heritage or group of ethnic heritages concerned, (2) the special knowledge of ethnic groups in local communities, (3) the expertise of elementary and secondary school teachers, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations, which can contribute to an understanding of the ethnic heritage or group of ethnic heritages with which the project is concerned.

"(b) Funds appropriated to carry out this title may be used to pay all or part of the cost of establishing and operating the projects, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purpose of this title.

"NATIONAL ADVISORY COUNCIL

"SEC. 1505. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be broadly representative of the Nation's identifiable ethnic groups and who shall be appointed, serve, and be compensated as provided in part C of the General Education Provisions Act, except that no member shall serve more than two years.

"(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part C of the General Education Provisions Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1506. There is authorized to be appropriated to carry out this title for the fiscal year 1972, the sum of $20,000,000, and for the fiscal year 1973, the sum of $30,000,000."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: Strike out all of title XV beginning on line 11, page 226, and ending with line 12, on page 229.

Mr. GROSS. Mr. Chairman, in view of the financial situation of this country and the tremendous amount of money that is otherwise authorized through the process of this bill, I find it utterly incredible that the taxpayers of this country should be called upon at this time, in this hour of financial crisis in this country, to authorize the spending of $50 million for ethnic heritage studies. Just what ethnic heritage studies means I do not know. I would be most happy to have some enlightened member of this committee, which is so enlightened on everything, including the invasion of jurisdiction of other committees, tell me what it is proposed to obtain out of $50 million worth of ethnic heritage studies.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. PUCINSKI. The gentleman has asked a very good and valid question. The bill provides funds for universities in this country to develop source material, curriculum material for the use of elementary and high schools across America on the history of various identifiable ethnic groups of this country. We have had enormous requests from teachers all over this country who would like to teach youngsters something about each other in their schools.

Mr. GROSS. I did not hear the gentleman. Did the gentleman say teach them something?

Mr. PUCINSKI. Something about their own ethnic heritage and the heritage of others.

Mr. GROSS. Do they not have parents? Cannot the parents teach them about their ethnic heritage?

Mr. PUCINSKI. Apparently often they do not. But this pertains to original source material. We have had many requests from schools all over the country for such material. If the gentleman would permit, I would like to quote from page 71 of the report a very eminent, noted professional, Prof. Ralph Vecoli of the University of Minnesota, who stated in support of this legislation this concept——

Mr. GROSS. I am sure the gentleman can conjure up all kinds of people in support of this proposition, especially those who are going to get some of the $50 million.

But how does the gentleman ever expect to balance a Federal budget or even come close to it if he is going to spend $50 million for this kind of thing?

Mr. PUCINSKI. I would be much more impressed with the gentleman's argument if he were not trying to delete this very important title, which is the smallest title of this bill, in a $22 billion package. The gentleman is going to sit down and tell us to kill this title for $50 million for the next 2 years, when we have $22 billion in this whole package.

Mr. GROSS. I would hate to have to go to the people of the Third Congressional District of Iowa and try to explain to them why in this crisis situation, with wage, price, and rent controls in effect, and no one knows as of now what the phase 2 controls will mean—and tell them that I voted to spend $50 million on ethnic heritage studies.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Iowa.

Mr. SCHERLE. Mr. Chairman, I thank my colleague, the gentleman from Iowa, for yielding.

Once again, we are involved with a "small" $50 million item. In the amendment previously adopted, the gentleman from Minnesota (Mr. QUIE) mentioned that initial funding of NIE would cost $3 million for the first year—which is true—just planning for the NIE. However, Mr. QUIE failed to tell the rest of the story—the second year would be $150 million, the third year would be $180 million, and the fourth year would be $220 million, and the fifth year would be $265 million. The billion dollars that was spent and wasted by the Office of Education on research within the last 10 years will be nothing compared to what this new beaucratic agency will cost us in the foreseeable future.

If this Congress is interested in assisting persons of ethnic heritage—that time is gone. When this country capitulated to the Russians over the division of Germany after World War II and failed to assist the Hungarians in their revolt for freedom in 1956—the injury to my ancestral countries is only too well known. We do not need to appropriate $50 million of the taxpayers' money to publicize our mistake.

Mr. GROSS. I thank my friend from Iowa for his comment with respect to spending under the previous title, but I am talking now about this title and a totally unnecessary expenditure of $50 million. If we cannot save this $50 million how in the world are we ever going to save this country from financial collapse?

I urge with the utmost sincerity that Members of the House adopt my amendment and strike this provision from the bill.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, just to put the expenditure in perspective, I would like to point out that this 2-year program is less than the cost of the one C–5A aircraft.

Mr. GROSS. I do not know what that has to do with the argument I am making. What has the one C–5A aircraft to do with this?

Almost any expenditure of this Government, or any tax can be broken down into a relatively small cost or unit of revenue in relation to the whole. But in the aggregate it may mean an enormous amount of money.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the gentleman's concern for trying to bring some economy into this bill, but I suggest he is in the wrong church and in the wrong pew when he tries to strike down this title. We have had extensive hearings on this title. We have had practically every ethnic group in this country testify in support of this bill. The administration has testified in support of the bill.

Why are we urging this legislation? We are the most unusual Nation in the world. There is not another nation like us. We are a polyglot nation made up of many diverse ethnic groups, many religions, many nationalities, and many races. Yet if we looked at the curriculum source material of any school in this country, we find relatively little or no material about the various ethnic groups that came here and made up this country, and made this country great, and put this country together, and gave us this great land of ours.

We have had testimony from teachers who have said they wanted to try to have our young people know something about each other. This bill is designed, as the committee report states on page 71:

The need for these materials and the resultant improvement of self-awareness and understanding of others knows no social, racial or economic limitations, and therefore this program is not to be administered as if it were just for the economically and educationally disadvantaged child.

This is a bill to try to give teachers the material they can work with to try to help the youngsters of this country know something about their own ethnic heritage and the ethnic heritage of others; something about the ethnic mosaic that makes up America.

Why did we put this in this bill? I would have preferred if we could have gone a separate route, but the other body has already included this bill in the Higher Education Act.

This is why the gentlewoman from Oregon graciously consented to let us include this title in the bill, so that when we go to conference we can work out our differences, if any. We, of course, shall press to take the bill in the other body which is similar to ours if the House rejects this title.

We have had more testimony and letters from the various ethnic groups of America, urging adoption of this provision than any other bill before us, so that teachers can have something in their classrooms, some material in their classrooms, about the various ethnic groups in this country.

Look through the average textbook in this country. You will find practically nothing about the immigrants who came to America to make America great. I defy you to find a book, to show me any book with the source material to tell us something about the people who came to America and put this country together.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to my colleague from Illinois.

Mr. CRANE. I should like to take exception to what the gentleman just said. As a former history professor, I can assure the gentleman, from teaching history down through the years and from studying history through the years, which includes about 11 years of undergraduate and graduate level work, one can find a great deal of material touching upon our national cultural heritage.

Mr. PUCINSKI. Mr. Chairman, I cannot yield further.

I do not know where the gentleman was teaching. I should like to ask, with all due respect to his experience as a teacher, does he want to negate totally the testimony of teachers in the classroom all over this country who came before our committee and said, "Give us some source material"? Right now they have to go to consulates and various other places to get material about these groups.

The various organizations of this country—this country is steeped in rich ethnic history of people who came here and brought their culture to America. That is why it is the greatest country in the world, because we have had homogenization of the great cultures of the world.

Yet when one looks at the average book of America he will not find anything about this. Members are welcome to look at the hearings held by the subcommittee, to see the kind of persuasive testimony given by teachers from classrooms who work with young people.

It would be my hope we would reject this amendment, to let us go to conference.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

I am constrained to take exception to what my good friend and colleague from Illinois has just said regarding the inavailability of historical background of ethnic groups in this country.

Has the Library of Congress been checked? Or will this provide for writing history books currently that are presumed not to be available now?

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am happy to yield to my colleague from Illinois.

Mr. PUCINSKI. Of course we can find material. I do not say we have no material at all. But the testimony of the teachers in the classrooms, first of all, is that this material is not directly available to them.

Mr. COLLIER. How then will this material be available to younger students? I am not quarreling with the proposal; I am trying to find out whether the gentleman is not actually using the wrong legislative vehicle to accomplish what is undoubtedly a good program.

Mr. PUCINSKI. The university develops source material, lecture material and information, whatever educational form it will take for presentation by a teacher in the classroom. The teachers can then request the material for their use in their classroom from the university.

Mr. COLLIER. But they do not develop the history which is already available.

Mr. PUCINSKI. And they request it for a teacher in a particular university for classroom use.

Mr. COLLIER. I do not think the teaching of history is developed through this type of approach. History in and of itself is a documentary from which ethic achievement and culture is derived.

I just cannot see how this section is going to accomplish what the gentleman understandably wishes to accomplish. I just do not believe it belongs in this bill.

Mr. PUCINSKI. I said at the outset, had we had our way about this, I would have preferred to bring the bill here separately, but the other body has included this title in the Higher Education Act.

We are going to go to conference.

Mr. COLLIER. I understand that.

Mr. PUCINSKI. We are not going to negotiate one-sidely. As far as the details of the bill are concerned, may I call your attention to the committee's report. I recommend you read the report, and I am sure it will help to persuade you.

Mr. COLLIER. I am not quarreling with the intent and purpose of it, because this in essence is politically motherhood, gingerbread, and apple pie. All I am saying is I do not think this is the best approach. I do not believe that merely because the other body does something that is improper it does not justify our taking the wrong road.

Mr. PUCINSKI. Will the gentleman yield?

Mr. COLLIER. No. Just one moment. I have already given the gentleman substantially of my limited time.

I repeat that I think this is the wrong approach, and at this point I would like to yield to my other colleague from Illinois.

Mr. CRANE. I thank the gentleman for yielding.

I would like to comment in this connection. Without having this kind of legislation on the books there is one area where there has recently been a determination to stress cultural heritage, namely, black studies in the colleges and universities. In giving a greater role in history to the very vital part played by blacks in our national experience, such studies developed without this kind of a grant.

One can argue that one's ancestry, whether Polish, Irish, German, or what have you, has been neglected in the past. This is primarily because of an emphasis existing in our history books for many years that attempted to blur cultural heritage.

I think black studies have contributed remarkably toward reviving an interest in one's own cultural background. I do not think that requires Federal aid.

Mr. PUCINSKI. Will the gentleman yield?

Mr. COLLIER. Yes, I yield.

Mr. PUCINSKI. That is precisely the point. We have a very impressive body of new material on black studies, but you do not have it on the other ethnic groups. What this bill tries to do is to make the resources available for the development of material in this country. This is precisely the point you are making, and that is why I say this legislation is important in order to bring some equity into the bill.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. COLLIER was allowed to proceed for 1 additional minute.)

Mr. COLLIER. In conclusion I must reiterate that I want to make the record clear. I agree with the intent, purpose and the long-range aspects of what is sought here. But because the Senate historically and traditionally writes legislation in a buckshot manner it does not justify our proceeding on what is obviously the wrong course to accomplish a laudable purpose.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

(By unanimous consent, Mr. PUCINSKI yielded his time to Mr. ANNUNZIO.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, this is one provision of the bill that I hope will not fall in the name of economy. An understanding of the racial divisions and the ethnic backgrounds has lead to my support and cooperation with the Education Committee on this bill. In the city of Detroit where two of the largest minorities happen to be—black and Polish Americans—we found from the Human Relations Commission, from numerous educators—and this information appears in the report of the committee—that we do not have an adequate appreciation of the ethnic contributions throughout the history of this country. That is not to say that they have not been touched upon to some extent, but as the gentleman with an educational background has pointed out, in the black studies these appreciations have just begun. We are talking about exposing ethnic cultures to all of the youngsters coming up from every background. That has not been done. It has been sadly lacking, although it has been noted and cited by numerous studies and recommendations as to the necessity for the consideration of programs of this kind.

Mr. Chairman, this is a very small price for us to pay for some beginning and understanding of the question involved here. We have got to bring an understanding of the ethnic contributions that each of the races has made in this country but which have been very poorly reproduced in the textbooks throughout our school system.

So, Mr. Chairman, I urge the members of the Committee to seriously consider

the importance of this very significant amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Ladies and gentlemen of the committee, I may be considered a political or ethnic apostate after tonight. But, even though I am a member of the committee, who has the greatest admiration for Chairman PUCINSKI, I must support the amendment of the gentleman from Iowa. I should also say that I announced my concern about this particular provision of the bill in committee.

Mr. Chairman, I am an ethnic myself. My father was an Italian who came from Italy in 1914 and my mother's parents were born in Italy and came to this country in the early 1900's. I am therefore an ethnic and I am a product of this background of which I am very, very proud because of the tradition and culture of the Italian people in music, in the arts, and many other fields of endeavor.

However, we are not talking about that tonight. We are talking about a great deal of money. We are talking about the rights and privileges of parents like my father and mother to inculcate in us an appreciation and an understanding of our culture and background.

I think I can say with full justification that we ought not to be emotionally persuaded to support this ethnic studies program because of our desire to honor our fatherlands, whichever they may be. It is not necessary to spend this tremendous sum of money to educate people about their ethnic heritage or to teach them about their cultural heritage, nationality and background. In my opinion this can be done in the home.

There are large groups of Italians and Poles, Germans and Irish in America. But, there are hundreds of other legitimate ethnic groups of which we are proud, but each of which would require a special course of study if the ethnic studies program is adopted. This would require great sums of money and is beyond my comprehension. I urge this committee to support the amendment of the gentleman from Iowa (Mr. GROSS) to strike the entire title from H.R. 7248.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman and members of the committee, I rise in opposition to the amendment which has been offered by the gentleman from Iowa whom I realize is one of the watchdogs of the budget. I voted against the last amendment for his benefit, an amendment designed to create this superboard.

However, we are talking here about a small expenditure of money. We are not talking about a particular ethnic background of anyone.

I have had the opportunity to read volumes and volumes of writings by sociologists throughout the country who have been studying the ghettos and the ethnic problems of the inner cities of America. These sociologists, including Dan Moynihan, whom President Nixon invited to the White House, met on the ethnic question and they agreed that all of these young people from various ethnic backgrounds should be studied and that the ethnic heritage study curriculum should be carried and be developed in our colleges and universities so that these young people can develop pride within themselves to become better Americans.

We are not talking about people who are bad Americans. We are talking about good Irishmen who are good Americans, good Germans who are good Americans, good Poles who are good Americans, good black people who are good Americans, and good Italians who are good Americans.

It is an honor for me to include all people of all ethnic backgrounds who are good Americans because in order to be a good American you must be a good Pole, a good Irishman, a good Italian, a good black man, a good Swede, a good Chinese, a good Japanese, so on down the line. All that these sociologists are trying to develop in our young people is a sense of pride in their own ethnic heritage so that we can cut down on the crime and delinquency among them and encourage them to become better Americans and thereby to participate more constructively in our society.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I listened with great interest to the preceding speaker. This is just a little money, the gentleman says. I can imagine that if $50 million was offered to the city of Chicago, city officials would break their collective necks to come running down here to get it.

Mr. ANNUNZIO. Will the gentleman yield; the amount in this bill is $22 billion.

Mr. GROSS. I will say to the gentleman from Illinois that what we are talking about and what I am trying to save is $50 million.

Mr. ANNUNZIO. I was trying to point out to the gentleman that the Committee on Education and Labor comes before this House with a bill, and that they are spending millions and millions of dollars in administrational programs that never reach the children in the inner cities of America.

Mr. GROSS. I reiterate that $50 million is still a great deal of money where I come from, if it is not where the gentleman comes from.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to join with the gentleman from Iowa and also the gentleman from Kentucky in their statements.

Perhaps at another time in the history of this country, a program such as this one would be desirable and justified. Surely we are all proud of our ethnic background and enjoy immensely those occasions when we take some time to participate in festivities designed to preserve the traditions and folkways of our forebears.

But I do not have to remind anyone in this body of the precarious position of our economy today. We are only in the first stages of what promises to be a long and difficult battle to put our economic house in order. One of the major efforts on which that struggle will rise or fall will be whether we in the Congress succeed in curbing all Federal outlays not absolutely necessary for the betterment of the people of this Nation who must pay the bill.

This $50 million proposal, Mr. Chairman, is one of those items without which this Nation can survive without appreciable damage.

I know what pride in ethnic heritage is all about. Both of my parents were immigrants from Italy. No one was prouder of his heritage than my parents. In my house we did not have to go to a textbook or a classroom to learn of that background. It was taught in many ways in our house every day of our lives.

To me that seems the very best way to learn of one's ethnic heritage. And that avenue is still open for many. For others who want to learn more in this field I can only say that there are no locks on our libraries. The books and periodicals are there and if the desire for this type of an educational program is as vital as the proponents of this $50 million item would have us believe, then that desire should inspire people to seek out that knowledge on their own.

At this time in the economic life of our country, while millions are walking the streets looking for work, surely this proposal can wait for a happier day.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN) to close the debate on this amendment.

Mr. PUCINSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, if the amendment to drop this legislation from the bill is passed, it will be an enormous disappointment to thousands upon thousands of ethnic organizations who have been pleading with Congress for this legislation.

I urge the House to reject this amendment and let us go to conference.

Mr. Chairman, I urge all of the Members to vote down this amendment, and to stay with the committee.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

TELLER VOTE WITH CLERKS

Mr. PUCINSKI. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PUCINSKI. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Messrs. GROSS, PUCINSKI, BRADEMAS, and COLLIER.

The Committee divided, and the tellers reported that there were—ayes 200, noes 159, not voting 72, as follows:

[Roll No. 352]

[Recorded Teller Vote]

AYES—200

Abbitt	Fountain	Pickle
Abernethy	Frelinghuysen	Powell
Alexander	Frenzel	Price, Tex.
Anderson, Ill.	Frey	Pryor, Ark.
Andrews, Ala.	Fuqua	Purcell
Andrews, N. Dak.	Galifianakis	Quie
Archer	Gettys	Quillen
Arends	Giaimo	Railsback
Ashbrook	Goldwater	Randall
Baring	Goodling	Rarick
Bell	Griffin	Rhodes
Bergland	Gross	Robinson, Va.
Betts	Grover	Robison, N.Y.
Bevill	Gude	Rogers
Biester	Hagan	Roncalio
Blackburn	Haley	Roy
Boland	Hall	Runnels
Bow	Hammer-schmidt	Ruth
Bray	Harsha	St Germain
Brinkley	Hastings	Sandman
Brooks	Hays	Satterfield
Broomfield	Henderson	Saylor
Brotzman	Hillis	Scherle
Broyhill, N.C.	Hogan	Schmitz
Buchanan	Hull	Schneebeli
Burke, Fla.	Hungate	Schwengel
Burleson, Tex.	Hutchinson	Scott
Burlison, Mo.	Ichord	Shoup
Byrnes, Wis.	Johnson, Pa.	Shriver
Byron	Jonas	Sikes
Camp	Keating	Smith, Calif.
Carter	Keith	Smith, N.Y.
Casey, Tex.	Landgrebe	Snyder
Cederberg	Latta	Spence
Chappell	Lennon	Springer
Clancy	Lent	Steed
Clausen, Don H.	McClory	Steele
Cleveland	McCloskey	Steiger, Ariz.
Collier	McCollister	Steiger, Wis.
Colmer	McCulloch	Stratton
Conable	McDade	Stubblefield
Conte	McDonald, Mich.	Talcott
Crane	McEwen	Teague, Calif.
Daniel, Va.	McKevitt	Terry
Danielson	McMillan	Thompson, Ga.
Davis, Wis.	Macdonald, Mass.	Thomson, Wis.
Delaney	Mahon	Tiernan
Dellenback	Mathias, Calif.	Ullman
Dorn	Mathis, Ga.	Van Deerlin
Dowdy	Mayne	Vander Jagt
Downing	Mazzoli	Vigorito
Dulski	Miller, Ohio	Waggonner
Duncan	Mills, Ark.	Wampler
du Pont	Mills, Md.	Ware
Dwyer	Minshall	Whalley
Edmondson	Mizell	Whitehurst
Edwards, Ala.	Monagan	Whitten
Erlenborn	Montgomery	Widnall
Eshleman	Myers	Williams
Evins, Tenn.	Natcher	Wilson, Bob
Findley	Nelsen	Wilson, Charles H.
Fish	Nichols	Winn
Fisher	O'Konski	Wyatt
Flowers	Passman	Wydler
Flynt	Pelly	Wyman
Ford, Gerald R.	Peyser	Young, Fla.
Forsythe		

NOES—159

Abourezk	Clay	Gibbons
Abzug	Collins, Ill.	Gonzalez
Adams	Conyers	Grasso
Addabbo	Corman	Gray
Albert	Cotter	Green, Oreg.
Anderson, Calif.	Culver	Green, Pa.
Anderson, Tenn.	Daniels, N.J.	Hamilton
Annunzio	Davis, Ga.	Hanley
Ashley	Davis, S.C.	Hanna
Badillo	de la Garza	Hansen, Wash.
Begich	Dellums	Harrington
Bennett	Denholm	Harvey
Biaggi	Dent	Hathaway
Bingham	Dingell	Hawkins
Boggs	Donohue	Hechler, W. Va.
Bolling	Dow	Heckler, Mass.
Brademas	Eckhardt	Heinz
Brasco	Edwards, Calif.	Helstoski
Brown, Mich.	Eilberg	Hicks, Mass.
Burke, Mass.	Esch	Hicks, Wash.
Burton	Evans, Colo.	Horton
Byrne, Pa.	Fascell	Howard
Caffery	Flood	Jacobs
Carey, N.Y.	Foley	Jones, Ala.
Celler	Fraser	Karth
Chamberlain	Fulton, Tenn.	Kastenmeier
Chisholm	Gallagher	Kazen
	Garmatz	Kemp
	Gaydos	Kluczynski
Kyros	Murphy, N.Y.	Roush
Leggett	Nedzi	Roybal
Link	Nix	Ryan
Long, Md.	Obey	Sarbanes
McCormack	O'Hara	Scheuer
McFall	O'Neill	Seiberling
McKay	Patten	Shipley
McKinney	Pepper	Smith, Iowa
Madden	Perkins	Staggers
Mailliard	Pettis	Stanton, James V.
Mann	Pike	Stokes
Matsunaga	Podell	Sullivan
Meeds	Preyer, N.C.	Symington
Melcher	Price, Ill.	Thompson, N.J.
Mikva	Pucinski	Vanik
Minish	Rangel	Veysey
Mink	Reid, N.Y.	Waldie
Mitchell	Reuss	Whalen
Mollohan	Riegle	White
Moorhead	Rodino	Wolff
Morgan	Roe	Yates
Morse	Rooney, N.Y.	Yatron
Mosher	Rooney, Pa.	Young, Tex.
Moss	Rosenthal	Zablocki
Murphy, Ill.	Rostenkowski	

NOT VOTING—72

Aspin	Gubser	Patman
Aspinall	Halpern	Pirnie
Baker	Hansen, Idaho	Poage
Barrett	Hébert	Poff
Belcher	Holifield	Rees
Blanton	Hosmer	Roberts
Blatnik	Hunt	Rousselot
Brown, Ohio	Jarman	Ruppe
Broyhill, Va.	Johnson, Calif.	Sebelius
Cabell	Jones, N.C.	Sisk
Carney	Jones, Tenn.	Skubitz
Clark	Kee	Slack
Clawson, Del	King	Stanton, J. William
Collins, Tex.	Koch	Stephens
Coughlin	Kuykendall	Stuckey
Dennis	Kyl	Taylor
Derwinski	Landrum	Teague, Tex.
Devine	Lloyd	Udall
Dickinson	Long, La.	Wiggins
Diggs	Lujan	Wright
Drinan	McClure	Wylie
Edwards, La.	Martin	Zion
Ford, William D.	Metcalfe	Zwach
Griffiths	Michel	
	Miller, Calif.	

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XVI—OCCUPATIONAL EDUCATION

SEC. 1601. This title may be cited as the "Occupational Education Act of 1971".

FINDINGS AND STATEMENT OF PURPOSES

SEC. 1602. The Congress finds and declares that—

(a) our educational system should be responsible for assuring that every young person leaving secondary school is prepared for and assisted in placement either in productive employment or in further education at the postsecondary level;

(b) the opportunity for postsecondary occupational education in programs which do not directly lead to a baccalaureate or advanced academic degree is severely limited in many parts of the Nation and is everywhere inadequate to meet existing needs, and that this situation adversely affects vital national economic and social goals;

(c) high-quality programs of postsecondary occupational education can be found in a wide variety of institutions, including public and private community and junior colleges, area vocational schools, technical institutes, private proprietary schools, college and university branches, and colleges and universities, and Federal support should encourage the utilization of all such facilities to meet the enormous needs in this field;

(d) the goals and purposes of the Congress in enacting the Vocational Education Act of 1963 and the amendments to that Act of 1968 cannot be realized until there is a widespread understanding of and support for occupational preparation in the general academic community which in turn is reflected in changed attitudes, curriculums, and practices in elementary and secondary schools; and

(e) the foregoing purposes and those of the Vocational Education Act Amendments of 1968 and related Acts cannot be realized without strong leadership and exemplary administration at the Federal level.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1603. For the purpose of carrying out part A of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year 1972, $250,000,000 for the fiscal year 1973, $500,000,000 for the fiscal year 1974, and for each fiscal year thereafter such sums as may be necessary to assure that the purposes of this title are realized. From the sums appropriated for the fiscal year 1972, 80 per centum shall be available for the purposes of establishing a plan for administration under section 1613, making planning grants under section 1615, and for initiating programs under section 1616 in those States which have complied with the planning requirements of section 1615; and 20 per centum shall be available only for technical assistance under section 1618(a). From the amount appropriated for each succeeding fiscal year 85 per centum shall be available for grants to the States for carrying out part A, and 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1618.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

SEC. 1604. (a) From the sums available for the fiscal year 1972, for allotment to the States under section 1603 the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums available for any fiscal year beginning after June 30, 1972, for allotment to the States under section 1603, the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $1,000,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States needs and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year.

PART A—OCCUPATIONAL EDUCATION PROGRAMS FEDERAL ADMINISTRATION

SEC. 1610. The Secretary of Health, Education, and Welfare shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this title;

(3) promote and encourage the coordination of programs developed under this title with those supported under the Vocational Education Act 1963, the Manpower Development and Training Act 1962, title I of the Economic Opportunity Act 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this title and of related Acts.

GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1611. The Commissioner of Education shall, in addition to the specific responsibilities imposed by this title, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which relate to or have an effect upon occupational education so as to provide the maximum practicable support for the objectives of this title;

(2) promote and encourage the infusion into our system of elementary and secondary education of occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational education programs as a responsibility of the schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

ESTABLISHMENT OF BUREAU OF OCCUPATIONAL EDUCATION

SEC. 1612. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who is compensated at the rate specified for GS–18 of the General Schedule (5 U.S.C. 5332).

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions compensated at the rate specified for GS–17 of the General Schedule (5 U.S.C. 5332), one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions compensated at the rate specified for GS–16 of the General Schedule (5 U.S.C. 5332), at least two of which shall be filled by persons with broad experience in the field of postsecondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

STATE ADMINISTRATION

SEC. 1613. (a) Any State desiring to participate in the program authorized by this title shall in accordance with State law designate or establish a State agency which will have sole responsibility for fiscal management and administration of the program, and which will provide assurances satisfactory to the Commissioner that—

(1) such State agency shall submit to the Commissioner a plan of administration which makes adequate provision for effective participation in the planning, design, administration, and evaluation of the program authorized by this title of persons with broad experience in the fields of—

(A) public and private community and junior college education,

(B) postsecondary vocational and technical education,

(C) occupational education in private, proprietary institutions,

(D) economic and industrial development,

(E) manpower development and training,

(F) academic education at the college and university level,

(G) secondary vocational and technical education,

(H) elementary and secondary education,

(I) elementary and secondary counseling and guidance, and

(J) industry, commerce, and labor.

(2) the State advisory council for vocational education will be charged with the same responsibilities with respect to the program authorized by this title as it has with respect to programs authorized under the Vocational Education Act of 1963;

(3) there is an administrative device which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this title; and

(4) there is adequate provision for individual institutions or groups of institutions and for local educational agenices to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this title with which such institution or institutions or such agency disagree.

(b) The Commissioner shall approve any plan of administration which meets the requirements of subsection (a), and shall not finally disapprove any plan without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any plan, the provisions for judicial review set forth in section 1617 (b) shall be applicable.

AUTHORIZATION OF GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1614. From the sums made available for grants under this section pursuant to sections 1603 and 1604, the Commissioner is authorized to make grants to the States to assist them in planning and administering high-quality programs of postsecondary occupational education which will be available to all persons in all parts of the State who desire and need such education, and to promote occupational orientation and education in the regular elementary and secondary school programs.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1615. (a) Upon the application of a State under section 1613, the Commissioner shall make available to the State the amount of its allotment under section 1604 for the following purposes—

(1) to assist the State administrative agency established in meeting the requirements of section 1613;

(2) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this title; and

(3) to enable the agency designated or established under section 1613 to initiate and conduct a comprehensive program of planning for the establishment and carrying out of the program authorized by this title.

(b)(1) Planning activities initiated under clause (3) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs funded under this title, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) the design of high-quality instructional programs to meet the needs for postsecondary occupational education and the development of an order of priorities for placing these programs in operation;

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in post-secondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried out under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1616 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1616. (a) From the allotments available to the States under section 1604(b) (upon application by the State administrative agency designated or established under section 1613), the Commissioner shall make grants to any State which has satisfied the requirements of section 1617. Such grants may be used for the following purposes—

(1) the design, establishment, and conduct of programs of post-secondary occupational education (or the expansion and improvement of existing programs) as defined by section 1620 of this title;

(2) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1615 (b) (1) (D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(3) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this title (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions);

(4) planning and evaluation activities designed pursuant to section 1615(b) (1) (E); and

(5) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this title.

(b) Programs authorized by this title may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this title by providing substantially equivalent education, training or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this title which would not otherwise be available.

ASSURANCES; JUDICIAL REVIEW

SEC. 1617. (a) Before making any program grant under this title the Commissioner shall receive from the State administrative agency assurances satisfactory to him that—

(1) the planning requirements of section 1615 have been met;

(2) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(3) Federal funds made available under this title will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(4) adequate provision has been made by such agency for programs described in section 1616(a) (2);

(5) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this title;

(6) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this title, provision has been made for the effective participation of such students; and

(7) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title.

(b) (1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the title, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this title until he is satisfied that there has been or will be compliance with the requirements of the title.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1613 (respecting approval of a State plan for administration) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

SEC. 1618. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this title upon the request of any State administrative agency designated or established pursuant to section 1613, and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provisions of this title and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1603, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this title and which might otherwise not be carried out (or be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the title);

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes of this title which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this title which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations.

PAYMENTS

SEC. 1619. Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

DEFINITIONS

SEC. 1620. For the purpose of this title—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1604) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "post-secondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide post-secondary education within a State, which is designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations) or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which require a baccalaureate or advanced degree.

PART B—CONFORMING AND SUPPORTING AMENDMENTS TO OTHER ACTS

SEC. 1630. (a) Section 203(a)(3) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of clause (B), striking out the semicolon at the end of clause (C) and inserting

in lieu thereof ", and", and by inserting a new clause as follows:

"(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education."

(b) Section 303(b)(3) of such Act is amended by redesignating clauses (C), (D), (E), (F), (G), (H), (I), and (J), respectively, as clauses (D), (E), (F), (G), (H), (I), (J), and (K), and by inserting a new clause as follows:

"(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;".

(c) Section 503(4) of such Act is amended by redesignating clauses (A), (B), and (C), respectively, as clauses (B), (C), and (D), and by inserting a new clause as follows:

"(A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education,".

SEC. 1631. (a) Section 104(a)(2) of the Vocational Education Act of 1963 (relating to the duties of the National Advisory Council on Vocational Education) is amended by inserting after "under this title" each time it appears ", and under part A of the Occupational Education Act of 1971,".

(b) Section 104 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting a new subsection as follows:

"(c) State advisory councils also shall perform with respect to the programs carried out under part A of the Occupational Education Act of 1971 functions identical with or analogous to those assigned under this title, and the Commissioner shall assure that adequate funds are made available to such Councils from funds appropriated to carry out part A of that title (without regard to whether such funds have been allotted to States) to enable them to perform such functions."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XVI may be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. HENDERSON. Mr. Chairman, I raise a point of order against section 1612 of title XVI.

The CHAIRMAN pro tempore. The Chair will hear the gentleman on his point of order.

Mr. HENDERSON. Mr. Chairman, section 1612 establishes a Bureau of Occupational Education. Subsecton (b) of section 1612 provides that the Deputy Commissioner of the Bureau shall be compensated at the rate specified for GS–18, and that the Bureau may assign not less than three positions at the rate specified for GS–17, not less than seven positions at the rate for GS–16, and not less than three senior advisers, one of whom shall be skilled in a recognized occupation, another in a branch of engineering, and a third in a branch of social or medical services.

All of these matters relate to the classification and the fixing of rates of compensation for Federal employees, and are matters that relate specifically to the Federal civil service.

Under clause 15 of rule XI of the Rules of the House of Representatives, matters relating to the Federal civil service are matters within the jurisdiction of the Committee on Post Office and Civil Service.

Mr. Chairman, in view of the lateness of the hour and the situation as it now exists, I should point out that Chairman DULSKI of the Committee on Post Office and Civil Service in September wrote to the chairman of the Committee on Education and Labor and pointed out these matters that we now make a point of order against as contained in section 1612.

Mr. Chairman, I urge that my point of order against section 1612 be sustained on the basis that it includes matter that is clearly within the jurisdiction of the Committee on Post Office and Civil Service.

The CHAIRMAN pro tempore. Does the gentleman from Illinois (Mr. PUCINSKI) desire to be heard on the point of order?

Mr. PUCINSKI. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the point of order. The provisions in question in title XVI, the Occupational Education Act, create a Bureau of Occupational Education and specify that 11 positions with specific responsibilities be included in that Bureau. Mr. Chairman, these provisions in no way impinge upon the jurisdiction of the Post Office and Civil Service Committee.

These provisions do not amend the Civil Service Act nor do they create any exemptions from that act. They simply specify that in the 11 positions created persons must be compensated at rates specified for supergrades. These provisions in no way require that these supergrades must be new supergrades, rather they can be positions which are presently assigned to the Office of Education by Congress. If the Office does not want to reassign these supergrades within the Office to this new Bureau, it will have to come before the Post Office and Civil Service Committee to request additional supergrades; and the decision on whether to give the office any new supergrades will be the decision of the Post Office and Civil Service Committee.

Therefore, Mr. Chairman, I would urge you to overrule the point of order.

Mr. Chairman, the last point I should like to make is that these provisions are in H.R. 7429, the Occupational Education Act, as it was referred to the Committee on Education and Labor.

The important thing is that we are not creating new positions. We are not asking the Civil Service Commission or the committee to approve these positions because these are positions already approved by the committee in previous allocations of supergrades to the Department. All we are saying is that the Commissioner shall reassign existing supergrades in his Department to this new Department for the new duties spelled out in the Act.

Therefore, I see no conflict between the jurisdictions of the committees, and I hope that the point of order will be overruled.

The CHAIRMAN pro tempore. Does the gentleman from Minnesota desire to be heard on the point of order?

Mr. QUIE. I should like to speak on the point of order in opposition, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. QUIE. Mr. Chairman, rule XI of the Rules of the House of Representatives outlines the jurisdiction of committees. The jurisdiction of the Committee on Post Office and Civil Service is set forth as covering, among other things, "(b) Federal civil service generally" and "(f) status of officers and employees of the United States, including their compensation, classification, and retirement."

It is true that section 1612 establishes by law a Bureau of Occupational Education within the U.S. Office of Education and requires that certain supergrade positions be assigned to that Bureau and that the persons who fill them have certain qualifications of a general nature, such as "highly qualified in the fields of vocational, technical, and occupational education" and "broad experience in the field of community and junior college education."

Now I want to make three points about these provisions:

First. They do not affect the Federal civil service generally or in any way at all; they do not amend, modify, or affect either directly or indirectly any act relating to the Federal civil service. At most, the provisions of this section say that from the supergrade resources available or made available to the Department, the new Bureau will have the specified number. Incidentally, in the opinion of everyone on our committee who worked on the occupational education title, these provisions were absolutely necessary to assure that the purposes of the Occupational Education Act were realized.

Second. While the provisions of this section mandate the assignment of certain supergrade positions to the new Bureau, they do not alter in any way any provision of law or civil service regulations relating to the compensation or classification of such positions, and of course they in no way affect the civil service retirement system.

Third. Finally—and I think this is the critical concern to the members of the Committee on Post Office and Civil Service—these provisions are not intended to have the effect of adding to the quota of supergrade positions established under title 5, United States Code, section 5108. Fixing the number of such positions is clearly a matter for the Committee on Post Office and Civil Service and these provisions do not interfere with that. The supergrade positions specified in section 1612 would have to come out of the quota established by the Committee on Post Office and Civil Service under section 5108 of title 5 of the United States Code.

Accordingly, I do not believe the point of order will lie against section 1612.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from North Carolina (Mr. HENDERSON) has raised a point of order against section 1612, beginning on page 235, line 18, through page 237, line 8, on the ground that the subject matter of subsection (b) of that section is within the jurisdiction of the Committee on Post Office and Civil Service and not the Committee on Education and Labor.

Section 1612(a) establishes in the Office of Education a Bureau of Occupational Education, which is to serve as the principal agency for the administration of various occupational, vocational, and manpower education and training programs. Section 1612(b) establishes the position of Deputy Commissioner at GS–18 to head the Bureau, and also prescribes the number of supergrade positions which must be assigned to the Bureau.

Clause 15(f), rule XI confers upon the Committee on Post Office and Civil Service jurisdiction over the status of officers and employees of the United States, including their compensation, classification, and retirement. Section 1612(b) of the committee substitute, if considered separately, is a subject properly within the jurisdiction of the Committee on Post Office and Civil Service. Under the precedents of the House, if a point of order is sustained against a portion of a pending section or paragraph, the entire section or paragraph may be ruled out of order.

Accordingly, the Chair sustains the point of order against section 1612, and the language in that section is stricken from the committee amendment.

AMENDMENT OFFERED BY MR. PUCINSKI

Mr. PUCINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PUCINSKI: Page 235 after line 17 insert the following:

ESTABLISHMENT OF BUREAU OF OCCUPATION EDUCATION

SEC. 1612. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963 including parts C and I, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b) (1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions at least two of which shall be filled by persons with broad experience in the field of post-secondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

Mr. PUCINSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. GROSS. Mr. Speaker, reserving the right to object, does this in any way reinstate any part of the language stricken under the point of order?

Mr. PUCINSKI. Will the gentleman yield?

Mr. GROSS. Yes. Of course.

Mr. PUCINSKI. The amendment deletes the language:

And who is compensated at the rate specified for GS–18 of the General Schedule (5 U.S.C. 5332).

Compensated at the rate specified for GS–17 of the General Schedule (5 U.S.C. 5332).

Compensated at the rate specified for GS–16 of the General Schedule (5 U.S.C. 5332).

In other words, this amendment deletes the objectionable language as was objected to by the chairman of the committee. The chairman has seen the amendment and so far as I know it is germane.

Mr. GROSS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The amendment was agreed to.

Mr. MEEDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to establish some legislative history, and I would like to engage in a colloquy with the chairman of the subcommittee, the gentleman from Illinois, one of the prime architects of the Vocational Education Act of 1968 (Mr. PUCINSKI).

Title XVI of H.R. 7248 which authorizes funds for postsecondary occupational education is merely an extension of the provisions contained in the Vocational Education Amendments of 1968 isn't it? Although these are two separate authorizations, it is the intent of the committee that these two pieces of Federal legislation, providing extensive educational opportunities, be integrated at the Federal, State, and local levels. Is that not correct?

Mr. PUCINSKI. That is correct. This is a continuation of the Vocational Education Act.

Mr. MEEDS. And, also, in view of the fact that title XVI of this legislation authorizes funds for postsecondary occupational education and is merely an extension of that act, is it not the intent of the committee that these two pieces of Federal legislation, providing extensive educational opportunities, be integrated at the Federal State, and local levels? Would the gentleman agree with me on that?

Mr. PUCINSKI. That is quite correct. The purpose of this title is to complement the work that the vocational educators are doing. This adds to the tools that we have given them and the youngsters of this country for their education.

Mr. MEEDS. The very fact that we have now coined a new word for vocational education in this title should not be construed as a way to set up new administrative structures that would fragment the program of vocational education among various agencies at the Federal, State, and local levels. Am I correct in making this assumption?

Mr. PUCINSKI. Yes.

Mr. MEEDS. I noted that the provisions of the Occupational Education Act of 1971 call for the State advisory councils for vocational education established under Public Law 90–576 to serve also as advisory groups for the Occupational Education Act of 1971.

While we must recognize that this advisory group is advisory only and not administrative, it seems to me that this is a further assurance that we have that the Vocational Education Amendments of 1968 and the Occupational Education Act of 1971 will be integrated. Would the chairman agree with me?

Mr. PUCINSKI. The gentleman is absolutely correct.

Mr. MEEDS. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XVII—STATE POSTSECONDARY EDUCATION COMMISSIONS

SEC. 1701. (a) Any State may designate or create a State agency or commission which is broadly and equitably representative of the public and of the public and private nonprofit and proprietary institutions of postsecondary education including community and junior colleges, technical institutes, four years institutions of higher education and branches thereof providing postsecondary academic and/or vocational and occupational training, in the State.

(b) (1) The Commissioner is authorized to make grants to State agencies or commissions designated or created pursuant to subsection (a) to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(2) The Commissioner is further authorized to make grants to such State agencies or commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include consideration of a system of community service institutions as a means of achieving such purpose.

(3) The Commissioner shall make technical assistance available to such State agen-

cies or commissions to assist them in achieving the purposes set forth in paragraphs (1) and (2).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1702. (a) Each State agency or commission (established under section 1701) may establish a committee (hereinafter in this section referred to as the committee), the membership of which shall include representatives of—

(1) all State agencies having responsibility or an interest in postsecondary education;

(2) community and junior colleges, four-year institutions of higher education and branches thereof, technical institutes, proprietary institutions, vocational schools, comprehensive secondary schools, adult education agencies, and State manpower agencies providing postsecondary academic and/or vocational and occupational training; and

(3) the general public, labor unions, business and industry, and agriculture.

(b) The committee may delay and adopt a statewide plan for the expansion and improvement of community postsecondary education programs. Such plan may—

(1) designate areas of the State in which residents do not have access to occupational education, continuing education, and community service institutions of postsecondary education within reasonable community distance;

(2) designate areas of the State in which existing community service institutions cannot meet the postsecondary educational needs of the residents;

(3) set forth a statewide plan for the establishment, expansion, and improvement of comprehensive community service institutions in order to achieve the goal of making available to all residents of the States, within commuting distance, an opportunity to attend a postsecondary educational institution;

(4) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (3);

(5) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (4), for community service institutions of higher education;

(6) recommendations for coordination of duplicating programs in order to eliminate such duplications;

(7) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (3), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect postsecondary education institutions.

(c)(1) There are hereby authorized to be appropriated $16,000,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this title.

(2) Sums appropriated pursuant to paragraph (1) shall be equitably allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this section, except that no such allotment to any State shall be less than $100,000 except that in the case of American Samoa and the Trust Territory of the Pacific Islands such allotment shall not be more than $50,000 each. Such sums shall remain available until expended.

(d) For purposes of this title, the term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XVII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. If there are no amendments to title XVII, the Clerk will read.

The Clerk read as follows:

TITLE XVII—TEMPORARY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION IN FINANCIAL DISTRESS

FINDINGS AND PURPOSE

SEC. 1801. (a) The Congress finds that there is a national interest in maintaining a strong and diverse system of higher education. The Congress further finds that some institutions of higher education are in serious financial distress and that their financial situation is likely to continue to deteriorate. Yet there is insufficient information as to the nature and causes of such financial distress and as to the appropriate means for dealing with it.

(b) It is therefore the purpose of this title to provide temporary relief to institutions of higher education which are now in serious financial distress but which are capable of contributing to a strong and diverse system of higher education, and to provide for a study of the various means of support for higher education.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 1802. There are authorized to be appropriated for the purpose of making grants under this title $150,000,000 for the fiscal year 1972, and $150,000,000 for the fiscal year 1973.

ELIGIBILITY

SEC. 1803. (a) An institution of higher education shall be eligible for assistance under this title if—

(1)(A) the sum of its income from all sources during the most recent fiscal year ending prior to its application for assistance under this title did not increase over the annual average of the sums of such income during the most recent two fiscal years ending more than one year prior to such fiscal year by an amount determined by the Secretary to be ordinarily sufficient to prevent financial distress among institutions of higher education similar in size and other relevant respects to such institution; and

(B) in the case of a public institution of higher education—

(i) the total amount appropriated for higher education purposes for such most recent fiscal year by the State in which such institution is located and the political subdivisions of such State, divided by the per capita income of such State for such year, exceeds the State average amount appropriated for such purposes for such year by all States and their political subdivisions, divided by the sum of the per capita incomes of all such States for such year; or

(ii) the total amount appropriated for higher education purposes for such most recent fiscal year by the State in which such institution is located and the political subdivisions of such State, divided by the per capita income of such State for such year, exceeds the annual average of the total amounts appropriated by such State and its political subdivisions for such purposes for the two most recent fiscal years ending more than one year prior to such fiscal year, divided by the average of the per capita incomes of such State for each such year; or

(2)(A) the sum of the amounts paid, during the most recent fiscal year ending prior to its application for assistance under this title, to such institution by the Federal Government pursuant to grants or contracts for research purposes is less than the annual average of the amounts so paid during the two fiscal years immediately preceding such year by a percentage not less than the percentage determined by the Secretary to represent a substantial reduction in Federal support, and

(B) payments under such grants and contracts to such institution during the two most recent fiscal years ending prior to its application for assistance under this title constituted a percentage of the total income available to such institution (exclusive of income available only for capital outlay) during such period not less than the percentage determined by the Secretary to indicate a major degree of financial dependence upon the research activities of the Federal Government.

(b) An institution of higher education shall not be awarded more than one grant under this title.

CRITERIA FOR MAKING GRANTS

SEC. 1804. (a) The Secretary shall by regulation establish criteria for making grants to institutions of higher education which he has determined to be eligible under section 1803. Such criteria shall take into account—

(1) the extent of the institution's financial distress, considering any special circumstances which have served to aggravate or alleviate such distress;

(2) the institution's capacity, with the assistance of a grant under this title, to recover from is financial distress and contribute to a strong and diverse system of higher education; and

(3) such other factors as the Secretary deems relevant to carrying out the purpose of this title.

(b) In determining, for purposes of clause (2) of subsection (a), an institution's capacity, with the assistance of a grant under this title, to recover from is financial distress, the Secretary shall consider whether or not such institution has developed and will, if assistance is made available to it under this title, carry out a reasonable plan for moving to a sound financial basis and whether or not such institution offers an educational program which is viable in terms of its potential student market and the competition for such market from other institutions.

(c) As a condition to making a grant under this title to an institution of higher education, the Secretary may require that such institution furnish him such information as he deems necessary concerning the use which will be made of funds paid to such institution under this title and such other information, including the financial plans of such institution, as he deems necessary to carry out this title.

COUNCIL ON HIGHER EDUCATION RELIEF ASSISTANCE

SEC. 1805. The Secretary shall establish a Council on Higher Education Relief Assistance which shall advise him on the carrying out of this title, including the promulgation of criteria under section 1804, the application of those criteria to institutions of higher education which have applied for assistance under this title and have been determined to be eligible under section 1803, and the making of each grant under this title, including the amount of such grant. The Council shall consist of nine members who shall have competence in finance and management, who shall have experience in dealing with problems of higher education, and who shall be appointed by the Secretary without regard to the civil service or classification laws. The Secretary shall furnish such assistance to the Council as he determines that it needs in carrying out its functions under this title, and for this purpose the Secretary may appoint not more than ten individuals, without regard to the civil service or classification laws, as members of the staff of the Council.

NATIONAL STUDY

SEC. 1806. In order to assist government at all levels in developing a long-range strategy for the support of higher education, the Secretary shall undertake an analysis of alternative ways of supporting higher education, focusing primarily upon the roles and functions which might be performed by Fed-

eral, State, and local governments in providing assistance to the various types of higher education institutions and programs. The report of such study shall be submitted to the President and the Congress not later than November 1, 1972.

EXCLUSION OF SCHOOLS OR DEPARTMENTS OF DIVINITY

SEC. 1807. No grant may be made under this title to, or for the support of, a school or department of divinity, nor may any such grant be used for sectarian instruction or religious worship.

DEFINITIONS

SEC. 1808. For the purposes of this title—

(a) The term "fiscal year" means the 12-month period beginning with July 1 of a calendar year and ending with the close of June 30 of the next calendar year.

(b) The term "institution of higher education" means an institution of higher education as defined by section 1201 of the Higher Education Act of 1965.

(c) The term "per capita income of a State" means the total income of individuals within that State divided by the number of such individuals, as determined by the Secretary on the basis of the most recent data satisfactory and available to him.

(d) The term "school or department of divinity" means a school or department of divinity as defined by the last sentence of section 401(a)(2) of the Higher Education Facilities Act of 1963.

(e) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XVIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. For what purpose does the gentlewoman from Oregon rise?

Mrs. GREEN of Oregon. Mr. Chairman, I rise for the purpose of offering an amendment.

POINT OF ORDER

Mr. HENDERSON. Mr. Chairman, I was on my feet seeking recognition. I raise a point of order against section 1805 of this title.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. HENDERSON. Mr. Chairman, I raise a point of order against section 1805 of title XVIII.

Section 1805 authorizes the Secretary of Health, Education, and Welfare to establish a Council on Higher Education Relief Assistance, and includes provisions that the Secretary may appoint not more than 10 individuals, without regard to the civil service or classification laws, as members of the staff of the Council.

An exemption to the civil service or classification laws is a matter clearly within the Federal civil service generally. Under clause 15 of rule XI of the Rules of the House of Representatives, a matter relating to the Federal civil service generally is a matter clearly within the jurisdiction of the Committee on Post Office and Civil Service.

Mr. Chairman, I urge that the point of order be sustained on the basis that section 1805 includes matters that are within the jurisdiction of the Post Office and Civil Service Committee.

The CHAIRMAN pro tempore. Does the gentleman from Wisconsin (Mr. STEIGER) seek to discuss this point of order?

Mr. STEIGER of Wisconsin. I do, Mr. Chairman.

Mr. Chairman, the language found on pages 260 and 261, section 1805 of title XVIII of the Higher Education Act in no way in my judgment would interfere with the operation of the civil service system. Consistently pieces of legislation are brought to the floor of the House which in effect make possible the creation of advisory councils such as of the type described in this title, and providing further that certain personnel may be appointed by whoever the appointing officer is without regard to the classification or civil service laws.

It would be my judgment that this in no way interferes with the Rules of the House of Representatives insofar as the jurisdiction of the Committee on Post Office and Civil Service is concerned. It does not amend the Civil Service Act in any way whatsoever, and is consistent with provisions of law found heretofore in bills reported by the Committee on Education and Labor, and by other committees as well.

It further seems to me that the establishment of a precedent of this kind would make it difficult for any committee of the House to effectively determine the operation of a council or commission of this nature unless an effort were then made to take it to the Committee on Post Office and Civil Service for approval and the decision substantively made by an authorizing committee.

Therefore, Mr. Chairman, I would urge that the point of order not be sustained.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from North Carolina (Mr. HENDERSON) has raised a point of order against section 1805, beginning on page 260, line 18, through page 261, line 12, on the ground that the subject matter of a portion of that section is within the jurisdiction of the Committee on Post Office and Civil Service and not the Committee on Education and Labor.

Section 1805 directs the Secretary of HEW to establish a Council on Higher Education Relief Assistance in order to advise the Secretary on carrying out title XVIII of the committee amendment which authorizes grants for temporary relief for institutions of higher education in financial distress. A portion of section 1805 permits the appointment of nine Council members and of 10 staff members without regard to the civil service or classification laws.

Clause 15(f), rule XI, gives the Committee on Post Office and Civil Service jurisdiction over the status of officers and employees of the United States, including their compensation, classification, and retirement. Section 1805 includes a portion which, if considered separately, contains subject matter within the jurisdiction of the Committee on Post Office and Civil Service. Under the precedents of the House, if a point of order is sustained against a portion of a pending section or paragraph, the entire section or paragraph may be ruled out of order.

The Chair, therefore, sustains the point of order against section 1805, and the language of the section is stricken from the committee amendment.

AMENDMENT OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. GREEN of Oregon: Beginning with line 7 on page 256, strike out everything down through line 25 on page 262.

Mrs. GREEN of Oregon. Mr. Chairman, this is the place where $150 million can be saved. Yesterday you approved the section for financing institutional aid to the colleges and universities across the country. There is a formula for the distribution of these $950 million. The portion of the bill that I would strike out, with the support of the distinguished chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) is for $150 million authority that supposedly is earmarked for the neediest institutions. Now, while there are some vague criteria in the bill, I have been told that even the people in the Office of Education are greatly concerned about this title because they do not see how they could possibly draw up any criteria that would be fair in determining who were the neediest institutions in the United States.

Let me give you some examples.

If an institution has excellent management, and it remains in the black, and another institution has very poor management and it is in the red, does the Office of Education then say that we are going to give the funds to the institution that is in the red because they need the money?

If an institution stays in the black by accepting real sacrifices, such as by cutting back on programs or by cutting faculty, salaries, should it be deprived of aid in favor of an institution that deliberately runs into the red?

If several institutions need aid, and there is money enough for only one, which one will the Office of Education select?

The so-called determination of need will really be a subjective decision by the Commissioner of Education to give our money to more colleges that are doing what he likes. He will reject those that are not behaving the way he wants.

Mr. PERKINS. Mr. Chairman, will the gentlelady yield?

Mrs. GREEN of Oregon. I yield to the distinguished chairman.

Mr. PERKINS. We have already approved a direct institutional assistance program amounting to over $950 million annually. Is there not grave danger that the administration will seek to implement this $150 million authorization at the expense of the direct institutional aid program. The funding of the institutional aid program which this House has al-

ready approved will be seriously jeopardized; is that correct?

Mrs. GREEN of Oregon. The gentleman is entirely correct. He points out one of the great dangers. For this reason it should be stricken from the bill.

Mr. PERKINS. Under the amendment the Commission will have all the latitude in the world. It will be a political football game.

Mrs. GREEN of Oregon. I think the gentleman is absolutely correct.

Mr. Chairman, we have in one of the other titles of the bill $120 million for developing institutions. These are primarily black institutions and new community colleges.

In my judgment, this particular title, now that $950 million has been agreed to by this House, is unnecessary. The gentleman from Iowa spoke a few moments ago about saving some money on the ethnic heritage title. This is an area where if you really want to cut down and if you want to save money so that it will go really to the needs of education in terms of the quality of the program, then I suggest that you support this amendment and delete this section from the bill.

Mr. GROSS. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman.

Mr. GROSS. Of course, if a $150 million saving will accrue from the adoption of your amendment, plus the $50 million saved from the ethnic heritage studies, you had better believe I am going to support your amendment.

Mrs. GREEN of Oregon. I thank the gentleman from Iowa—and that will be $200 million that would be saved.

Mr. Chairman, this is an unnecessary expenditure in my judgment.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, is an amendment in order at this point which would amend that title as it now stands, when we have an amendment to strike the title now pending?

The CHAIRMAN pro tempore. The Chair will state to the gentleman that an amendment to the title would be in order.

Mr. STEIGER of Wisconsin. Is it to be offered as an amendment to the substitute?

The CHAIRMAN pro tempore. As an amendment to the title only and not to the substitute.

AMENDMENT OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Wisconsin: On page 260, add a new section 1805 to read as follows:

COUNCIL ON HIGHER EDUCATION RELIEF ASSISTANCE

SEC. 1805. The Secretary shall establish a Council on Higher Education Relief Assistance which shall advise him on the carrying out of this title, including the promulgation of criteria under section 1804, the application of those criteria to institutions of higher education which have applied for assistance under this title and have been determined to be eligible under section 1803, and the making of each grant under this title, including the amount of such grant. The Council shall consist of nine members who shall have competence in finance and management, who shall have experience in dealing with problems of higher education, and who shall be appointed by the Secretary without regard to the civil service or classification laws. The Secretary shall furnish such assistance to the Council as he determines that it needs in carrying out its functions under this title.

Mr. STEIGER of Wisconsin. Mr. Chairman, this would reinstate that section that was struck down as a result of the point of order raised against that provision in title XVIII by the gentleman from North Carolina (Mr. HENDERSON).

May I say in all honesty, Mr. Chairman, I cannot help but be somewhat sympathetic to the desire of those who say that this is the time to save money but at whose expense? I urge that the amendment I have offered be adopted to perfect title XVIII and then, Mr. Chairman, I urge that the motion made by the gentlewoman from Oregon to strike title XVIII be defeated.

This title was adopted on a bipartisan basis with the support of Members such as the gentleman from New York (Mr. SCHEUER), the gentleman from Indiana (Mr. BRADEMAS) and others on the majority side, as well as Members from the minority side within the Committee on Education and Labor. It is not—may I repeat, not—a substitute for another form of institutional aid or for that provision of institutional aid adopted in title VIII by this House by an overwhelming majority.

While title VIII in its introductory language declares that "an emergency condition has arisen which threatens the continued ability of many institutions," frankly, in my judgment, it does not address itself to that emergency. Only assistance targeted on those institutions proven to be in financial distress can meet an emergency.

We recognize that there is a serious financial crisis for some but not all institutions of higher education.

No one on this floor during the days of debate on this bill has said that all institutions are experiencing the same degree of financial need. Clearly, they are not. The Association of American Colleges, to which the gentlewoman from Oregon referred to earlier, in its release, stated—that out of about 1,500 colleges—

Some 365 of the nation's private colleges and universities may be ready to close their doors by 1981 unless immediate aid is forthcoming. Two hundred institutions will be exhausting their liquid assets within a year, according to the Association of American Colleges in a report released today, September 23rd.

Thus it seems to me that we do ourselves and our colleges a disservice if we do not recognize that there are some institutions which, unless we can give them this kind of rifled targeted approach, will be in financial difficulty. I, under no circumstances can stand here and say to the gentlewoman from Oregon or the distinguished chairman of the full committee, who are making an argument that is totally without foundation or substance, that somehow this is an alternative to title VIII. It is not. I have said it as clearly as I know how. It is a supplement, a complement, if you will, to the decision of the House to have a program of across-the-board institutional aid.

Some on the committee have been saying that we cannot treat student need through any one system, that it takes someone to look at each student's unique financial condition. If that is true—and there may always be questions to be asked about it—then surely no single system, no one formula, will meet the financial need of unique and very diverse institutions.

This title, therefore, allows the necessary amount of human decisionmaking in the determination of severe financial difficulty.

It ought to be clear, the bill sets forth certain "thresholds" which must be crossed before any institution is eligible even to apply for temporary assistance grants. This will cull out great numbers of institutions which are not in severe trouble and allow the decisionmaking to concentrate on a smaller number of institutions.

To assist him, the Secretary of HEW is directed to appoint a Council on Higher Education, and that is the amendment now pending before the committee.

The bill requires that no institution receive more than one grant, and that, before a grant is made, the institution shall demonstrate the capacity to contribute, with the help of the grant, to a strong system of higher education. This means that some institutions, perhaps the very small college—and there are, as you know, about 600 colleges with less than 500 students—may be able to demonstrate severe need, but no promise of making it even with a grant. We should not be in the position of having to save every institution with public money simply because it exists.

This title does not amend the Higher Education Act. It is a temporary title authorizing $150 million in fiscal year 1972 and $150 million for fiscal year 1973.

In summary, no State formula, categorical program, student aid program, or general aid provision will rescue those several institutions who—often through no real fault of their own—are in serious financial distress, can make a viable contribution to our higher education system, and need a specific grant of a specific size to get over a temporary financial hump.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentleman from New York is recognized.

Mr. SCHEUER. I would like to ask my colleague, the gentleman from Wisconsin (Mr. STEIGER) a question. Is this title which provides an emergency fund of $150 million, which the gentleman quite correctly stated I supported in the full committee and the subcommittee, found in haec verba in the Senate bill that has passed the Senate?

Mr. STEIGER of Wisconsin. It is not identical language.

Mr. SCHEUER. Substantively is it the Senate bill?

Mr. STEIGER of Wisconsin. There is a provision, to which I referred during my

remarks during general debate, in, I believe, section 123 of the bill of the other body which does authorize a program similar in nature to this one.

Mr. SCHEUER. One hundred and fifty million dollars?

Mr. STEIGER of Wisconsin. One hundred and fifty million dollars.

Mr. SCHEUER. Very good. My colleague from Wisconsin very accurately describes my strong support of this authorization of $150 million in the subcommittee.

I know that he is a totally sincere man whose integrity and bona fides are beyond question. He and I both feel that this $150 million should be passed, should be available, and should not be instead of but rather should be in addition to the $800 million we have in the general funding measure. It is for this reason, to protect the goal that the gentleman from Wisconsin (Mr. STEIGER) and I both believe in, that I support the amendment offered by the gentlewoman from Oregon (Mrs. GREEN).

We have the opportunity to get the reassurances that we need to satisfy the gentleman from Wisconsin (Mr. STEIGER) and to satisfy me that the $150 million will be in addition to and not instead of the $800 million of general funding if the item were to be deleted in the House bill and were to be present in the Senate bill and were to be on the table in the conference committee negotiations.

Assuming that this provision is eliminated from the House bill, I, myself, with the distinguished gentlewoman from Oregon (Mrs. GREEN) or the distinguished chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) can ask asurances, perhaps cooperatively with the gentleman from Wisconsin (Mr. STEIGER) from the Office of Education that it would be their intent in requesting the funding and administering these bills that this $150 million would be in addition to and not instead of the basic $800 million we hope to fund today. I believe we could assure ourselves that the wish of the gentleman from Wisconsin and my wish would be carried out by the administration if we can have this next week or 10 days to get firm commitments from the Administration as to how they would spend the money and some commitments as to specific criteria or guidelines which would be employed in dispensing the funds so we would know this money would be used for the colleges in extremis and desperately in need of aid, as the gentleman from Wisconsin (Mr. STEIGER) and I agree is so urgently needed.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, I wonder if we could arrive at a limitation of time. I ask unanimous consent that all debate on this amendment and all amendments thereto end in 5 minutes.

Mr. QUIE. That is 5 minutes after the gentleman from New York finishes?

Mrs. GREEN of Oregon. That is correct.

Mr. ERLENBORN. Mr. Chairman, reserving the right to object, I know there are probably more than five people standing at this time, and we will be in the very embarrassing position where each Member will have less than a minute.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on the Steiger amendment and this title close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the revised unanimous-consent request of the gentlewoman from Oregon?

There was no objection.

Mr. SCHEUER. In summation, I am supporting the amendment offered by the gentlewoman from Oregon (Mrs. GREEN) in order to put meat on the skeleton of the determination of the gentleman from Wisconsin (Mr. STEIGER) and my determination that this $150 million will be an emergency fund that will be in addition to the $800 million and not in substitution thereof.

I am doing this in support of the Steiger effort to preserve the full integrity of his splendid proposal.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, using the gentleman's logic, should we not defeat the whole bill, so we can put meat on the whole bill too? That is the gentleman's logic—defeat this title and then we can put meat on the bones. That is certainly a ridiculous logic. This title is substantively different from the Senate title, so we can meet in conference and discuss the differences.

Mr. SCHEUER. I ask my colleague, what are the substantive differences?

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

Mr. SCHEUER. Mr. Chairman, I ask unanimous consent that I may proceed for an additional minute.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, a parliamentary inquiry. Are we not operating under a limitation of time at this point?

The CHAIRMAN pro tempore. The gentleman from New York had 2 minutes remaining. We are now operating under a limitation of time.

The Chair recognizes the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, the gentleman from New York asked me a question when his time ran out, as to some differences. One of the differences which is substantive is that in the Senate bill the aid is made through State agencies and here it is directly from the Commissioner.

I would say if the Members here are opposed to this title and do not want to aid institutions in financial distress, they ought to vote for the amendment of the gentlewoman from Oregon and strike it out, but if they are in favor of that aid they ought to vote against it and provide that emergency aid.

All of us on the committee had great reservations as to providing this kind of emergency aid, and how it is to be done, because we tried to develop some way of determining which institutions are in need. Finally those who voted for this title decided to leave that to the Secretary of Health, Education, and Welfare, and he could make the determination, and have an advisory committee evidently made up of the peers of the colleges which are in financial difficulty.

At least this will be an attempt to help those who are really in need now. Institutional grants in title VIII gives aid across the board. It will not make the relationship of one institution to another any different, and will not get at the severe financial distress some institutions have found themselves in.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Chairman, the House has already voted to put within control of the Office of Education $800 million to be distributed according to a very carefully worked out formula which recognizes a number of criteria that should guarantee equity in that distribution to the institutions of higher education in this country.

This section becomes inconsistent with the purposes of that section already adopted by the House, because now it would purport to give the Secretary of HEW an additional $150 million, literally to spend any place he wanted, under any circumstances that appealed to his own individual judgment.

The temptation to make applications under this section, subject to all kinds of outside pressures would seem to me to be something we should not ask our friends in higher education to face.

What is even more dangerous, it seems to me, is that since HEW can spend this money willy-nilly, doing whatever they want, rather than distribute it under a formula which guarantees each State and each institution in a State its fair share, the temptation might be for the Office of Management and Budget to withhold the expenditure of funds under the $800 million authorized to be appropriated under title VIII of this bill and expend the funds instead under this section, so that they could engage in this sort of selective spending. In effect we could have this previously adopted section destroyed by the adoption of this section.

I therefore support the motion of the gentlewoman from Oregon to strike this title from the bill.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, while I do not believe that the $800 million provided in title VIII will ever be funded, I would feel much better today if we had $500 million in the section sought to be deleted. If we did so we would be making a much greater contribution to higher education than would be the case even if title VIII was fully funded.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentle-

man for yielding. I support the committee position on this amendment.

Mr. Chairman, I support H.R. 7248 and believe its provisions are much needed to meet a genuine crisis in the funding of higher education in America. I am confident the House shares this conviction and will approve the bill by an overwhelming majority vote.

Of course, there are some imperfections in the bill and some provisions which should be amended. While I favor the study of ethnics and cultural heritage in our schools, I believe the $50,000,000 Federal funding authorized for this purpose is excessive in these times. This authorization should be reduced or eliminated, in view of much more pressing educational needs and requirements for which tax dollars are needed.

In general, I support the committee's findings and recommendations on priorities and have voted accordingly on amendment proposals.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

(By unanimous consent, Mr. PERKINS yielded his time to Mrs. GREEN of Oregon.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. Mr. Chairman, I rise in strong support of the provision of my colleague from Wisconsin (Mr. STEIGER).

If we really look at what we are doing here, we are not talking about the matter of general institutional aid. We have dealt with that. The House has spoken as to what it feels should be done in beginning a program which is not going to institutions in particular crisis. The proposal before us now is a direct reflection of the statements that were made constantly before our subcommittee that many institutions are in a crisis situation. If we do not take this sort of step at this time and defeat this motion and leave this provision in the bill, we will not have done what these institutions need in order to take care of the crisis. We will have dealt in general across the board with institutions of higher education, which I personally believe is highly desirable, but we will not have met the crisis.

I yield to my colleague from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's yielding.

I want to say since we became involved in the development and implementation of title XVIII I have heard from a number of institutions of higher education that indicated they are in serious trouble and they will make application for this assistance.

It is inconceivable to me that this House this afternoon will decide to force those institutions to close simply on the basis that they think there is another program that will come along next year.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I could not help but think, when the gentleman from New York (Mr. SCHEUER) was in the well supporting the gentleman from Wisconsin of the prayer that one makes to be saved from help from his friends because he can protect himself from his enemies.

It is certainly the most unusual support I have ever heard for a proposition the gentleman has in the bill to strike it out from the bill to save it.

I certainly hope Mrs. GREEN's motion will fail and the gentleman's provision in title XVIII will stay in.

Why should we have both titles VIII and XVIII? There is one good reason. In title VIII there is a provision that the college must spend at least as much money as the average total expenditure in that institution over the last 2 years. The institution that is really in trouble and losing students and losing financial support will be unable to make those expenditures. That is exactly why some institutions are in trouble. They will not then qualify for aid under title VIII. These are the institutions that are in real difficulty and they can qualify for aid under title XVIII. That is why we need both provisions.

I hope that the title will stay in the bill.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon to close debate.

Mrs. GREEN of Oregon. Mr. Chairman, there are some 2,600 institutions of higher education across the country. It would be absolutely impossible for the Commissioner of Education to divide only $150 million among 2,600 institutions on any fair criteria.

I mentioned a while ago the impossibility of drawing up any formula or criteria that would be fair in terms of identifying the need. We have authorized by the previous action $800 million that would be distributed among all of the institutions in a general aid formula which I outlined yesterday.

Mr. Chairman, if we have the $800 million; if it is distributed among the 2,600 colleges, and if it is funded by the Bureau of the Budget, then the institutions that are in the greatest need will have the help which they require.

The gentleman from New York has made a very good point that if both of these titles are in here, we will have the Bureau of the Budget saying they will impound the $800 million that is designed for all of the institutions and for which the need is nationwide, and then they will spend $150 million which the Commissioner of Education is to give out as he sees fit.

This is not the manner in which we should legislate. We should stay with the main provision which is supported by every association of higher education in the United States. I do not recall any witnesses before our committee making a plea for the $150 million on emergency relief.

The developing institutions, as I mentioned a moment ago, which are primarily the black colleges in the South and the new community colleges, are already covered under title III to the extent of $120 million. They are the institutions in the greatest need and that $120 million ought to also be funded before there is any additional $150 million authorized or appropriated.

So, Mr. Chairman, I hope the amendment which I have offered will be adopted by the committee and that we can get on with the business of the consideration of this bill and close the debate. We have almost reached the end of the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. STEIGER).

The question was taken; and on a division (demanded by Mr. STEIGER of Wisconsin) there were—ayes 24, noes 99.

So the amendment was rejected.

The CHAIRMAN pro tempore. The question now recurs on the amendment offered by the gentlewoman from Oregon (Mrs. GREEN).

The question was taken; and on a division (demanded by Mrs. GREEN of Oregon) there were—ayes 122, noes 17.

So the amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XIX—YOUTH CAMP SAFETY

SEC. 1901. This title may be cited as the "Youth Camp Safety Act".

STATEMENT OF PURPOSE

SEC. 1902. It is the purpose of this title to protect and safeguard the health and well-being of the youth of the Nation attending day camps, resident camps, and travel camps, by providing for establishment of Federal standards for safe operation of youth camps, to provide Federal assistance to the States in developing programs for implementing safety standards for youth camps, to provide for the Federal implementation of safety standards for youth camps in States which do not implement such standards and for Federal recreational camps, thereby providing assurance to parents and interested citizens that youth camps and Federal recreational camps meet minimum safety standards.

DEFINITIONS

SEC. 1903. For purposes of this title—

(1) The term "youth camp" means—

(A) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period of, or portions of, five days or more, and includes a site that is operated as a day camp or as a resident camp; and

(B) any travel camp which sponsors or conducts group tours within the United States, or foreign group tours originating or terminating within a State, for educational or recreational purposes, accommodating within the group five or more children under eighteen years of age living apart from their relatives, parents, or legal guardians for a period of five days or more.

(2) The term "youth camp safety standards" means criteria directed toward safe operations of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid; and medical services; food handling, mass feeding, and cleanliness; wa-

ter supply and waste disposal; water safety including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(3) The term "youth camp operator" means any private agency, organization, or person, and any individual, who operates, controls, or supervises a youth camp, whether such camp is operated for profit or not for profit.

(4) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(5) The term "State" includes each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

GENERAL DUTY

SEC. 1904. Each youth camp operator shall provide to each camper safe and healthful conditions, facilities and equipment which are free from recognized hazards that are causing, or are likely to cause, death, serious illness, or serious physical harm, as well as adequate and qualified instruction and supervision at all times, wherever or however such camp activities are conducted and with due consideration of conditions existing in nature.

PROMULGATION OF YOUTH CAMP SAFETY STANDARDS

SEC. 1905. The Secretary shall develop, and shall by rule promulgate, modify, or revoke youth camp safety standards. In developing such standards the Secretary shall consult with State officials and with representatives of appropriate public and private organizations, and shall consider existing State regulations and standards and standards developed by private organizations which are applicable to youth camp safety. The Secretary shall make the initial promulgation of standards required by this section within one year after the effective date of this title.

STATE JURISDICTION AND STATE PLANS

SEC. 1906. (a) Any State which, at any time, desires to assume responsibility for development and enforcement of youth camp safety standards applicable to youth camps therein (other than travel camps) shall submit a State plan for the development of such standards and their enforcement.

(b) The Secretary shall approve a plan submitted by a State under subsection (a), or any modification thereof, if such plan in his judgment—

(1) designates a State agency as the agency responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of youth camp safety standards which standards (and the enforcement of such standards) are or will be at least as effective in providing safe operation of youth camps (other than travel camps) in the State as the standards promulgated under section 1905,

(3) provides for the enforcement of the standards developed under paragraph (2) in all youth camps in the State which are operated by the State or its political subdivisions,

(4) provides for an inspection of each such youth camp at least once a year during a period the camp is in operation,

(5) provides for an advisory committee, to advise the State agency on the general policy involved in inspecton aind certification procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping,

(6) provides for a right of entry and inspection of all such youth camps which is at least as effective as that provided in section 1909,

(7) contains satisfactory assurances that such State agency has or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(8) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(9) provides that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require,

(10) provides assurances that State funds will be available to meet the portions of the cost of carrying out the plan which are not met by Federal funds, and

(11) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds received under this title.

(c) The Secretary shall approve any State plan which meets the requirements of subsection (a), but shall not finally disapprove any such plan, or any modification thereof, without affording the State agency reasonable notice and an opportunity for a hearing.

(d) Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall (1) notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan; and (2) shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payment shall be limited to programs or portions of the State plan not affected by such failure).

(e) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

GRANTS TO STATES

SEC. 1907. (a) The Secretary may make grants to States which have in effect plans approved under section 1906 to assist them in carrying out such plans. No such grant may exceed 80 per centum of the cost of developing and carrying out the State plan. Payments under this section may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of underpayments or overpayments.

(b) There are authorized to be appropriated for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to make the grants provided for in this section.

ENFORCEMENT BY SECRETARY; CITATIONS

SEC. 1908. (a) The Secretary shall be responsible for the enforcement of youth camp safety standards in States which do not have in effect a State plan approved under section 1906, and with respect to travel camps.

(b) The Secretary shall issue regulations and procedures providing for citations to youth camp operators for any violation of the duty imposed by section 1904, of any standard, rule, or order promulgated pursuant to section 1905, or of any regulations prescribed pursuant to this title. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimus violations which have no direct or immediate relationship to safety or health.

INSPECTIONS, INVESTIGATIONS, AND RECORDS

SEC. 1909. (a) In order to carry out his duties under this title, the Secretary may enter and inspect any youth camp and its records, may question employees, and may investigate facts, conditions, practices, or matters to the extent he deems it necessary or appropriate.

(b) For the purpose of any hearing or investigation provided for in this title, the provisions of section 8(b) of the Occupational Safety and Health Act of 1970 shall be applicable to the Secretary.

(c) To determine the areas in which safety standards are necessary and to aid in promulgating meaningful regulations, camps subject to the provisions of this title shall be required to report annually, on the date prescribed by the Secretary, all accidents resulting in death, injury, and illness, other than minor injuries which require only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of activity or motion, or premature termination of the camper's term at the camp. Camps operating solely within a State which has in effect a State plan approved under section 1906 shall file their reports directly with that State, and the State shall promptly forward such reports on to the Secretary. All other camps, including travel camps, shall file their reports directly with the Secretary. The Secretary shall compile the statistics reported and include summaries thereof in his annual report to the President and Congress.

PENALTIES

SEC. 1910. (a) Any youth camp operator who willfully or repeatedly violates the requirements of section 1904, any standard, rule, or order promulgated pursuant to section 1905 or regulations prescribed pursuant to this title may be assessed a civil penalty of not more than $2,500 for each violation.

(b) Any youth camp operator who has received a second or subsequent citation for a serious violation of the requirements of section 1904, of any standard, rule, or order promulgated pursuant to section 1905, or of any regulations prescribed pursuant to this title, shall be assessed a civil penalty of up to $1,000 for each such violation.

(c) Any youth camp operator who fails to correct a violation for which a citation has been issued under section 1908(b) within the period permitted for its correction may be assessed a civil penalty of not more than $500 for each day during which such failure or violation continues, or until the camp closes in its normal course of business.

(d) For purposes of subsection (b), a serious violation shall be deemed to exist in a youth camp if there is substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such camp, unless the

operator did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 1911. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any youth camp, or in any place where camp activities are conducted, which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger.

(b) Upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any camp site or place of camp activity, he shall inform the affected campers, camp owners, and camp supervisory personnel of the danger and of the fact that he is recommending to the Secretary that relief be sought.

VARIATIONS

SEC. 1912. The Secretary, upon application by a camp owner showing extraordinary circumstances or undue hardship, and upon the determination by a field inspector, after inspection of the affected premises and facilities, that the conditions, practices, or activities proposed to be used are as safe and healthful as those which would prevail if the camp owner complied with the standard, may exempt such camp or activity from specific requirements of this title, but the terms of such exemption shall require appropriate notice thereof to parents or other relatives of affected campers.

TRAVEL CAMPS

SEC. 1913. (a) All travel camps shall register annually with the Secretary on such date as he shall prescribe.

(b) Registration shall consist of a declaration of intent to operate a travel camp and shall contain such other information as the Secretary may reasonably require, such as, but not limited to, a disclosure of the principal owners and/or operators and their addresses, a list of key supervisory personnel and their qualifications, the equipment belonging to the camp which will be utilized in operating the camp, and a reasonably explicit description of the itinerary for each planned tour route and activities, number of campers enrolled, number of counselors and supervisory personnel to accompany each tour and their qualifications.

FEDERAL RECREATIONAL CAMPS

SEC. 1914. (a) The Secretary shall develop safety standards to govern the operation of Federal recreational camps. The Secretary shall cooperate with Federal officers and agencies operating Federal recreational camps to assure that such camps are operated in compliance with the Secretary's standards. The Secretary may make the services of personnel of the Department of Health, Education, and Welfare available, without reimbursement, to other Federal agencies to assist them in carrying out this section.

(b) For purposes of this section, a Federal recreational camp is a camp or campground which is located on Federal property and is operated by, or under contract with, a Federal agency to provide opportunities for recreational camping to the public.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 1915. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The Council shall consist of the Secretary, who shall be Chairman, and nine members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service and shall include one representative from the Department of the Interior. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 1916. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once during each fiscal year a comprehensive and detailed report on the administration of this title.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this title; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

(c) Nothing in this title or regulations issued hereunder shall authorize the Secretary, a State agency, or any official acting under this title to restrict, determine, or influence the curriculum, program, or ministry of any youth camp.

(d) Nothing in this title shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others.

AUTHORIZATION

SEC. 1917. There are authorized to be appropriated to carry out the provisions of this title (in addition to the amounts authorized by section 1907) such sums as may be necessary for the fiscal year 1973 and each fiscal year ending prior to July 1, 1976.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIX be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. SAYLOR. Mr. Chairman, I make a point of order against section 1914.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. SAYLOR. Mr. Chairman, pursuant to House Resolution 661, I make a point of order against section 1914 of H.R. 7248 on the ground that the subject matter of the section is within the jurisdiction of the Committee on Interior and Insular Affairs.

Section 1914 permits the Secretary of Health, Education, and Welfare to develop safety standards that will govern the operation of Federal recreational camps, which are defined as camps on Federal property that provide recreational camping for the public. This definition includes campgrounds open to the public in: First, national parks; second, forest reserves created from the public domain; third, irrigation and reclamation projects; and fourth, public lands generally, which are usually called public domain. More Federal recreational camps are located on the foregoing categories of land than on any other Federal land.

Jurisdiction over legislation governing the use of the foregoing categories of Federal land is specifically assigned to the Committee on Interior and Insular Affairs by rule XI, clause 10, of the rules of the House.

The CHAIRMAN pro tempore. Does the gentleman from Oklahoma desire to be heard on the point of order?

Mr. EDMONDSON. Mr. Chairman, on behalf of the majority, and the chairman of the House Committee on Interior and Insular Affairs, I want to support the point of order made by the gentleman from Pennsylvania (Mr. SAYLOR). It is a point of order that the entire committee supports.

The CHAIRMAN pro tempore. Does the gentleman from New Jersey desire to be heard upon the point of order?

Mr. DANIELS of New Jersey. I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order raised by my colleague.

The essential question is whether section 1914 is, in the words of the rule, and I quote:

Properly within the jurisdiction of any other standing Committee of the House of Representatives.

The Education and Labor Committee clearly has jurisdiction over the general question of setting safety standards in youth camps. This is plain from the regular practice of referring bills dealing only with this subject matter to that mittee, such as H.R. 17131 and H.R. 17307 in the 90th Congress; H.R. 763 in the 91st Congress; and H.R. 1264 and H.R. 11227 in the 92d Congress.

It is, of course, true that the Committee on Interior and Insular Affairs has jurisdiction over public lands, and the question raised by the point of order is how to reconcile the geographical jurisdiction of the Interior Committee over national parks with the functional jurisdiction of the Education and Labor Committee over child safety conditions.

It seems clear to me that the two jurisdictions are not mutually exclusive and that certain matters may be appropriately considered one way or the other.

The Education and Labor Committee had before it a bill dealing with the subject of youth camp safety in general whose provisions should also be appli-

cable to youth camps in Federal parks. Under those circumstances, the subject matter was properly before the Education and Labor Committee without in any way infringing on the Interior Committee's jurisdiction over national parks.

The CHAIRMAN pro tempore. Does the gentleman from New York desire to be heard on the point of order?

Mr. PEYSER. I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order raised by the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. Chairman, without having the parliamentary procedure or the background on how the Chair is going to reach its final decision, I believe that one thing that should be considered here is that the area of the Federal lands that are involved in the national parks and other areas that are used by camping associations and travel camps are specific areas that should be included in this particular act, and under this program. We gave instances that we can speak of, and will show of fatalities that have occurred on Federal lands where improper or no safety regulations that should have been enforced were enforced. Where we are in position now, or certainly are on our lands that are controlled by this Government, to incorporate this in one bill and leave this most important section as part of our Camp Safety Act.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. SAYLOR) has raised a point of order against section 1914 of the pending measure on the ground that it is not properly within the jurisdiction of the Committee on Education and Labor.

The section in question authorizes the Secretary of Health, Education, and Welfare to develop safety standards to govern the operation of Federal recreational camps.

As the Chair understands the section, it pertains to camps and campgrounds on Federal property—in national park reclamation projects, national forests, at facilities operated by the Corps of Engineers in connection with public works.

The Chair does not feel that his reading of rule XI discloses any clause which would place legislation with respect to safety standards at such campsites within the jurisdiction of the Committee on Education and Labor.

The Chair feels that if a bill embodying the provisions of section 1914 were introduced as a separate piece of legislation, it would be referred to a committee other than the Committee on Education and Labor.

The Chair, therefore, sustains the point of order and the language is stricken from the committee amendment.

PARLIAMENTARY INQUIRY

Mr. DANIELS of New Jersey. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DANIELS of New Jersey. Mr. Chairman, does the ruling of the Chair provide that just that one section be stricken from title XIX?

The CHAIRMAN pro tempore. The gentleman is correct.

AMENDMENT OFFERED BY MR. DANIELS OF NEW JERSEY

Mr. DANIELS of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELS of New Jersey: Insert on page 275 at the end of section 1913 of the reported bill, the following:

(c) The Secretary may for any year enter into an agreement with any major youth camp operator of travel camps under which such operator will act as his agent for purposes of this section, but such travel camps shall not, by reason of this subsection, be relieved of any of their obligations under this title."

Mr. DANIELS of New Jersey. Mr. Chairman, I would like to explain this amendment. It is a very plain and simple amendment.

The title provides:

Mr. Chairman, this amendment is endorsed by the Boy Scouts of America and other organizations that are interested in youth camps.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DANIELS of New Jersey. I yield to the gentleman.

Mr. PICKLE. I would like to inquire of the distinguished gentleman if the amendment you have offered is the same title XIX that is in the bill with the deletion of the Federal camps, that was sustained by the chairman?

Mr. DANIELS of New Jersey. That is correct.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DANIELS of New Jersey. I am happy to yield to gentleman from Missouri.

Mr. HALL. Do I understand the gentleman to testify before the Committee that the camp and safety committee of the National Council Boy Scouts of America testified in favor of this section and for his amendment?

I happen to be a member of that National Camp and Safety Council and there are other members of the National Board of Boy Scouts of America on the floor. We have queried the Boy Scouts as to whether or not they favor this section and have had no reply. So I beseech the gentleman from New Jersey to provide any information that is available.

Mr. DANIELS of New Jersey. I do know the exact position of the Boy Scouts. As I said, this section is endorsed by the Boy Scouts of America.

Mr. HALL. Can the gentleman state by whom and where in the hearings the endorsement appears?

Mr. DANIELS of New Jersey. I do have before me a letter from the Boy Scouts of America dated October 12, 1971. Does the gentleman want me to read the entire letter or just an excerpt from it?

Mr. HALL. The gentleman's word is satisfactory.

Mr. DANIELS of New Jersey. I understand that this amendment will be inserted at the end of section 1713, a former bill be have as (c). I will read a quote:

That is exactly the language I proposed.

Mr. HALL. I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. PICKLE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. PICKLE. Mr. Chairman, if I understand correctly, the gentleman from New Jersey has offered an amendment which would put back into the bill title XIX with the portion which has been deleted. My inquiry of the Chair is if that amendment is adopted, would it then be in order for amendments to be offered, or a substitute to that particular amendment be offered?

I have an amendment at the desk, Mr. Chairman, and I should like to offer that amendment at this time.

The CHAIRMAN pro tempore. The Chair would like to inquire whether the gentleman's amendment is an amendment to the amendment of the gentleman from New Jersey.

Mr. PICKLE. It is an amendment in the nature of a substitute to title XIX.

Mr. DANIELS of New Jersey. Mr. Chairman, will the gentleman hold that for a moment, because I do not have the technical amendment I would like to offer.

Mr. PICKLE. I will withhold it if my rights are protected.

The CHAIRMAN pro tempore. As the Chair understands, the amendment of the gentleman from Texas is in the nature of a substitute to the whole title.

Mr. PICKLE. That is correct.

The CHAIRMAN pro tempore. That would be in order after the perfecting amendments of the gentleman from New Jersey are disposed of.

Mr. ROSENTHAL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in support of the amendment and commend the distinguished chairman of the subcommittee (Mr. DANIELS).

Mr. Chairman, as one of the original congressional sponsors of youth camp safety legislation, I am pleased to see the fruit of many years work being considered here today. Title 19 of the Higher Education Act (H.R. 7248) is excellent camp safety legislation, and a fine sentiment of concern on the part of this House toward the well-being of our youth.

Since 1967, when I first introduced legislation in this area, the number of youngsters attending the Nation's 10,000 summer recreational camps has grown from 6 million to 8 million. The parents of these 8 million youngsters trust that their children are in trained hands and in a safe atmosphere—but this is not always the case. In 1971 alone, more than 80,000 summer campers incurred injuries due to accident or illness. Many of the mishaps involved hazards that could have been foreseen and should have been prevented.

As the situation stands today, 19 States have no regulations regarding camp safety; 40 have no standards for counselors or waterfront personnel; and 29 States require no inspections of camp facilities.

Clearly, the States have been negligent in supervising camp safety. The result of

this laxity has been tragic injury and even death.

Action to remedy this neglect has now fallen to the Federal Government, and it is high time we assume this responsibility to our constitutents and to future generations. Campers have been jeopardized far too long; Federal regulations are too long overdue.

Title 19 of the Higher Education Act can provide that needed protection—quickly and efficiently. It is the most extensive piece of camp safety legislation ever proposed, and the most comprehensive method yet devised of assuring the health of our young campers.

It sets Federal standards, yet allows the States to administer their own camp safety programs, if they wish. Fair and equitable enforcement of the Federal standards is carefully provided for under the procedures described in title 19. Serious violations of the standards are subject to citation and civil penalty, and then only after repeated offense. This protects the legitimate and safe camp operator, and provides remedial, rather than punitive sanctions.

Those persons directly involved with camping and so vitally interested in the welfare of this Nation's campers have expressed enthusiastic support for title 19. The Boy Scouts of America and the American Camping Association have endorsed title 19. The Committee on Education and Labor has deemed title 19 a worthwhile camp safety program. Everyone, in fact, with experience in the field, recognizes the value of this title. The only vocal opposition to the act has come from the Nixon administration.

The Secretary of Health, Education, and Welfare does not like title 19. He says he already has the authority to investigate camp safety conditions, but—to follow the advice of President Nixon, who said to judge his administration by its actions and not its words—let us look at the record. The facts clearly show that Secretary Richardson and his department have done nothing to look into this problem. My authority for that statement is Mr. Richardson himself, who, in a letter dated October 19 to the minority leader, Mr. FORD, wrote:

> The extent to which there is a camp safety problem warranting federal intervention is unknown at this time.

I would like to point out that Mr. Richardson's letter not only admits the Department of Health, Education, and Welfare has not bothered to find out what the problem is in youth camp safety, but it also contends the Department has the authority to make the necessary investigation. I submit, Mr. Chairman, that this constitutes an appalling admission that the administration simply does not care about youth camp safety, is doing nothing about the problem, plans nothing, and, what's more, does not want to do anything.

Accordingly, it is up to Congress to seize the initiative. Already, the other body has passed strong youth camp safety legislation. We cannot neglect our duty. Warm and sunny days spent at summer camp should be a joyful experience and a fond memory for our children. It should not be marred by tragedy. For the welfare of the young campers, for the peace of mind of their parents, and for our commitment to the Nation's most precious natural resource, our young people, I urge you to support title 19 of the Higher Education Act, and resist any effort to weaken it.

I am including at this point an October 23, 1971, editorial from the Washington Post supporting title 19:

MAKING SUMMER CAMPS SAFE

Most of the nation's estimated eight million youth campers have now returned from happy weeks or months enjoying Nature and the outdoors. Many of the children were at safe, well-run camps where supervision is firm and accident prevention is taken seriously. That is not true for all the children, however; many attended camps where counselors had little or no knowledge of dangerous waters or woods, where safety equipment was not provided, where safety and health inspections were rare or non-existent. The statistical breakdown between safe and unsafe camps is not known. A possible guide is that out of 11,000 camps in the country only about 3,500 are accredited by the American Camping Association. According to Dr. John Kirk, president of the ACA, testifying in the last session of Congress, only "26 states have adequate legislation in the areas of sanitation. About 15 have safety regulations that would be meaningful. About three or four make reference to personnel." Against this background, the House is soon to consider an amendment to the higher education act offered by Representatives Daniels and Peyser.

The amendment, which is essentially the Youth Camp Safety bill, has been endorsed by such groups as the American Camping Association, the YMCA, the Boy Scouts of America, the Salvation Army. A main feature is that HEW sets minimum federal standards for safety in the camps. These standards can then be administered by the states; the latter will receive 80 per cent funding from the government to administer these safety measures. The Daniels-Peyser amendment is an effective approach because it provides incentives to let the states administer their own programs while ensuring that nationwide standards will be met. Thus, a camp in one state will have the same minimum safety standards as a camp a mile across a state line or a camp 2,000 miles across the country. Congress has been debating for years now on how to protect millions of children from poorly run camps, so the endorsement of the camping groups for this amendment can hardly be ignored. ACA President Kirk is on record as saying that the Youth Camp Safety bill "is one of the most outstanding pieces of proposed legislation that I have ever seen."

The need for federal minimum standards is great. Over the years, the list of camp deaths and injuries has grown long, from river drownings because children were not given life jackets to highway crashes of children riding on dangerous flatbed trailer trucks. Safety-minded officials say that large numbers of these tragedies could easily have been avoided.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. DANIELS).

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided, and there were—ayes 67, noes 33.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. DANIELS OF NEW JERSEY

Mr. DANIELS of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELS of New Jersey:

On page 277, in Section 1917 strike out "1972" and insert in lieu thereof "1972".

The CHAIRMAN pro tempore. The gentleman from New Jersey is recognized in support of his amendment.

Mr. DANIELS of New Jersey. Mr. Chairman, I shall be very brief. The amendment is a technical amendment pertaining to section 1917 with regard to the authorization. The error was made in writing the bill. The first year this would become effective is in 1972, whereas pertinent language in the bill says 1973. We want to change the "1973" to "1972."

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey.

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute for title XIX offered by Mr. PICKLE:

Strike out all of title XIX and substitute in lieu thereof the following:

INVESTIGATION OF YOUTH CAMP SAFETY

SEC. 1901. The Secretary of Health, Education, and Welfare shall make a full and complete investigation and study to determine (1) the extent of preventable accidents and illnesses currently occurring in youth camps throughout the Nation, (2) the contribution to youth camp safety now being made by the State and local public agencies and private groups, (3) whether existing State and local laws adequately deal with the safety of campers in youth camps, (4) whether existing State and local laws relating to youth camp safety are being effectively enforced, and (5) the need for Federal laws in this field.

REPORT

SEC. 1902. The Secretary of Health, Education, and Welfare shall make a report to the Congress before January 1, 1973, on the results of his investigation and study under this title. Such report shall include his recommendations for such legislation as may be necessary or desirable.

AUTHORIZATION OF FUNDS

SEC. 1903. There is authorized to be appropriated $300,000 for carrying out the purposes of this Act.

Mr. PICKLE. Mr. Chairman, I have offered this amendment in the nature of a substitute to strike title XIX, or what is left of it, and ask for a study and a survey to be conducted so that we have more established facts.

This House may remember that 2 years ago this same measure was submitted to the House. It was submitted by the gentleman from New Jersey (Mr. DANIELS) in which he asked for a survey and a study to establish some facts about the camp situation in this country. The House turned down that request 2 years ago by a vote of 152 to 151. In other words, the House voted no for just a study at that time.

It has come back to us today on the basis that perhaps we have reached a point where we need a study and a survey made, because we are all faced now

the proposition that either we are going to take the Daniels bill which has been submitted in title XIX, or else we are going to take the Esch bill which is in the wings to be offered as a substitute.

I want to read some language about what happened 2 years ago. This is language of the gentleman from Kentucky (Mr. PERKINS):

It is the committee's belief that each State can best implement the findings of the youth camp survey acting through the workings of its own state legislative process.

Again we have the gentleman from New Jersey (Mr. DANIELS) saying:

There is no intent to compel any State to take affirmative action.

Again we have Mr. DANIELS saying:

As I said before, we do not provide any compulsion. It is merely suggested that the findings of the study be widely disseminated.

Then the gentleman from Wisconsin (Mr. STEIGER), said:

I will say in complete candor that I do not intend to come back with a bill to propose Federal standards for all camps.

Then the gentleman went on to say that we ought to have some kind of study.

The gentleman from Illinois (Mr. ERLENBORN) from the other side of the aisle, also said that this is not an area where we should seek or desire Federal regulations or laws to control youth camps.

This testimony was clearly established 2 years ago, and in spite of the fact that the House had known this might be a foot in the door, we did not have enough facts. Two years ago, the committee wanted a study before regulations would be issued. Two years later, the committee is willing to abandon the study and push for regulations.

Mr. Chairman, no one can stand in this well and oppose safety.

Certainly anyone who has had children in camp or anyone who has had anything to do with the camps would want to do everything to protect the safety and health and life of any child. We all agree on that. We must be agreed on that principle.

Everyone is in favor of camp safety. There is not a man or woman in this Chamber who would vote against saving the lives of children.

But, Mr. Chairman, we must mix in some judgment with our fervor. I think the intent of the committee's legislation is good and I support that intent. However, I think we may be premature in our action today.

This legislation would create a new level of bureaucracy with strong regulations, inspections, and enforcement through fines, and injunctions.

Mr. Chairman, I will readily admit and even support legislation which might save the life of even one child away at camp. I know in my own mind that there are camps in this country which may need policing.

However, I think we first need to know the size, the scope and the seriousness of the problem of camp safety. This legislation today would have us charging out with an answer when we do not even know what the question is.

I do not think we know enough about the problems of camp safety. I am not certain in my own mind if the bill before us even goes to the heart of the matter. And before we jump with the solution, I think we would be wise to first survey the needs. I think we should first have a comprehensive governmental study to seek out the basics like, how many camps exist, who runs them, what kind of safety training exists for their personnel, what is the true accident record, and all the other pertinent questions which must be asked.

Mr. Chairman, in 1969, this body voted against such a study—yet today we find ourselves on the verge of implementing a strong Federal camp safety program without benefit of material documentary evidence.

If this is not enough to jar you—I ask that you consider another aspect of this legislation. To put it into operation is going to cost money; it is going to cost a lot of money. That cost will not be absorbed by the camp owners; that cost will be passed on to the users of the camps; that costs will be passed on to the children. Mr. Chairman, my guess is that this program will be so expensive that some children from middle and low incomes will no longer be able to afford any sort of camping activities.

Mr. Chairman, let me point to another objective of this bill—again a laudable objective, but perhaps unnecessary. I say it might be unnecessary because the Senate acted earlier on the question of uniform standards. I think it is important that a parent in Texas or in New York can send their child to a camp in New Mexico or New Jersey and know for certain that this particular camp will indeed be safe. Therefore, I think it is important that we have uniform standards of safety throughout the Nation. The Senate recognized this in authorizing each State to promulgate these standards.

Mr. Chairman, I do not think enough research has been done on this legislation. The Senate passed their bill with no hearings. The House bill had about 4 hours of hearings. The leadership of the Camping Association for Mutual Progress which represents camps throughout Louisiana, Texas, Arkansas, Oklahoma, and New Mexico, did not know of the legislation until it was already out of committee. They have contacted 104 camps throughout the five-State area of their association and none of the camps have ever heard of this legislation. These people should have an opportunity to come in and testify. I have been told that executives of 35 councils representing Texas, Oklahoma, and New Mexico have not been informed of this camping legislation. I have heard from managers of church camps in the Southwest who have never heard of this legislation. Representatives of State YMCA camps are opposed to it. I realize that there are always people who come in opposing legislation at the last minute claiming they did not know it was pending.

However, I have heard from enough people in the Southwest to believe that it will not be fair to pass this bill without giving them a chance to testify. Although I have only heard from people in the Southwest I wonder if camp operators all over the country know about the legislation we are considering today.

The question now is what to do. Are we going to put into law a bill that would set Federal standards for every recreational camp in the country?

That is our choice. We are entitled to ask why we are faced with that kind of proposition today.

This bill was tacked onto the higher education bill by the other body. In their weird wisdom they just stuck it on there and said they would run with that bill at this time. So our side felt we ought to have something to counteract it. Thus, they have put it in this form. The Senate had no hearings. I believe I am correct on that, that no hearings were held this year. I can sympathize with our distinguished chairman of the subcommittee, because here all at once, like a bolt, came this bill from the other side without any hearings.

The gentleman from New Jersey did hold hearings. I want to be sure that is understood. I understand he had hearings, for 2 days, for a total of 4 hours on this particular bill. Yet we have no printed hearings. We have no records to look at, we have no printed hearings. I am not privileged to see the facts which have been brought out before this committee.

I have called the committee to ask for the printed hearings, so I might see them. They were not available. I wonder about some of the statements, particularly those which make reference to the Boy Scouts of America, because the contention is that the Boy Scouts do recommend it.

I have a statement here from the Boy Scouts of America, and I talked with some representatives today. Their position is—and I hope I am stating it correctly—that their primary concern is safety.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. PICKLE was allowed to proceed for 5 additional minutes.)

Mr. PICKLE. Mr. Chairman, the Boy Scouts take the position that safety is their first concern. Two years ago they took the position that they preferred the States take over this matter and assume leadership.

But the proposition submitted to them was, "Are you for this camp safety bill?" Of course the Boy Scouts, and I assume the Girl Scouts and other organizations, would be for any kind of bill that would be for safety. I would not disagree with that.

I do not believe we are going to get a clear-cut statement from the Boy Scouts or the Girl Scouts that this is the particular bill they want. I have talked with my own Boy Scouts, and they question whether we ought to go this far, but they are not going to take a position in opposition to this bill.

Our committee had before them the bill from the other body, that says they want to establish Federal standards and if a State desires a State can adopt them and then the Federal Government will give some assistance.

We have two bills before us, the Daniels-Peyser bill, and then we have the Esch bill, and these bills set up Federal standards either to be enforced by the Secretary of Health, Education, and Welfare, or Labor, or to be enforced by the State.

Do Members realize that in this bill there are penalties which would allow fines of up to $2,500, fines of $1,000, fines of $500?

I submit that we are going to take a long step here if we actually allow this bill to go through, before we have enough facts. That is why I have offered the substitute.

I have received many communications, I would be glad to read them. Most of my camp operators contend they have had no notice of the hearings.

We are just saying that we ask HEW to go out and make a survey, make a study, and come back to us and give us information about the extent of preventable accidents and illnesses currently occurring in the youth camps throughout the Nation, the contribution to youth camp safety now being made by State and local public agencies and private groups, whether existing State and local laws adequately deal with the safety of campers in youth camps, whether existing State and local laws relating to youth camp safety are being effectively enforced, and the need for Federal laws.

If this committee, after the survey, comes back and says, "There is a need, and here are the facts," that we must accept; and I believe this body then must take responsible action. But until that time we are premature if we set out here to pass a bill that provides for Federal standards and forced State standards which would be on a level with the Federal level, until we have more information.

I have before me a wire from the YMCA of Dallas, representing many of the YMCA's of Texas.

I have letters and wires from a dozen or more major camps in my district strongly opposing this measure, saying that the States ought to have the right to enforce any such standards.

Some of the girls camps in central Texas are saying that their record of safety is better than most any other place and there is no need for this, to at least let them work it out.

I have a wire from R. J. Kidd; a letter from Mrs. R. A. Lewis; a wire from L. W. Robertson, Mrs. Frank Harrison, director of Camp Mystic where my daughter went to camp, and a wire from Camp Champion, which is the camp owned by Horton Nestra and Coach Darrell Royal, expressing opposition to the bill in its present form.

I have heard from a group representing 22 Baptist camps in Texas.

Mr. Chairman, I could go on and on with the wires I have received.

I hope it is not intepreted that I am against safety in camps. As an Eagle Scout, I think I know what safety means in any camp. I repeat, as I conclude, we are all for safety. The question is, do we need to have this kind of bill at this point? I submit that the Youth Camp Safety Act has little or nothing to do with the higher education bill. I believe we will be better off with my proposal. Let us not get trapped into supporting the Daniel-Peyser bill, or the Esch bill. Support my substitute, and then we can have a study and have some facts to determine what to do.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I wonder if we could reach some agreement on time on this title. The hour is getting late, and we still have another title.

Mr. ESCH. Mr. Chairman, will the gentleman yield to me?

Mr. PICKLE. I yield to the gentleman.

Mr. ESCH. I think we ought to take into consideration that this particular title really represents a total bill and would have 2 or 3 hours of general debate on it in any other circumstances. I think we should be allowed to proceed for awhile under the circumstances.

If this particular amendment is not adopted, I have a complete substitute bill which will take a great deal of time, so I think it is in the best interests of the House to proceed in due order and not to place any limitation of time on this until at least we see if the gentleman's amendment prevails.

Mr. ERLENBORN. Will the gentleman yield?

Mr. PICKLE. Yes. I yield to the gentleman.

Mr. ERLENBORN. I want to call the gentleman's attention to the last line of his amendment which is the authorization of funds. It says "to carry out the purposes of this act." That should be "the purposes of this title," since this is a title of another act.

Mr. PICKLE. Yes, that would be correct.

Mr. ERLENBORN. I wonder if the gentleman wants to ask unanimous consent to have the word "act" changed to the word "title."

Mr. PICKLE. That is my intent, and if no one objects, I will ask unanimous consent that the word "act" be replaced by the word "title."

The CHAIRMAN pro tempore. The Clerk will read the amendment as corrected.

The Clerk read the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have served as chairman of the Select Subcommittee on Labor for the past 3 years, and I would like to say in response to the gentleman from Texas who proposed this amendment that our committee held hearings not only in this, the 92d Congress, but we also held hearings in the 90th Congress and the 91st Congress.

It is true that we had only 2 days of hearings this year, as you said, and the record was not printed. The reason for the delay in printing the record is that we deferred to the minority in order to have the Secretary of Health, Education, and Welfare come in to testify. He was not only invited in the usual manner by written invitation but by telephone. However, he failed to appear.

As you indicated, since the other body added the youth camp safety bill to the higher education bill, in order to preserve the position of the House, we added on title XIX to H.R. 7248. However, there are printed hearings in the 90th and 91st Congresses.

I want to say that everybody who asked for an opportunity to appear and testify had that opportunity. We gave wide publicity to the fact that we were going to conduct hearings on this matter. Anybody who expressed a desire to testify could have testified. We did have the major camping organizations in this country come before our committee to express their views.

There has been some doubt cast on the position of the Boy Scouts of America. I have here a photostatic copy of a letter dated October 22, 1971, from the Boy Scouts of America, signed by Russell A. Turner, manager of the Camping and Engineering Service, addressed not to me but to the Honorable MARVIN L. ESCH, of the House of Representatives. I would like to read a couple of paragraphs from this letter.

This gentleman was furnished with two bills, H.R. 11227, the Youth Camp Safety Act introduced by the gentleman from Michigan (Mr. ESCH) and my bill, H.R. 7248, and I quote these paragraphs:

> For about 5 years we have consulted with Members of Congress in connection with our mutual concerns for the welfare of the youth. We have joined the Welfare Camp Association and other agencies in a consulting role as several bills have been proposed. Our position is a matter of record on both Senator Ribicoff's bill and Congressman Daniels' proposed legislation on youth camp safety. Within the last 90 days we have indicated support for Mr. Daniels' bill, H.R. 1264 and the most recent, H.R. 7248, containing title XIX of the Higher Education bill which is a modification of H.R. 1264. These bills have been very carefully reviewed by us and by the American Camping Association and others. The Boy Scouts of America find this bill generally constructive and helpful. We concur that immediate safety standards are necessary to the welfare of these camps.

May I point out the fact that over 8 million young people, both boys and girls, each year go to camp in this country. There are approximately 10,000 to 11,000 camps. Many parents send their children to camp in the mistaken belief that these camps are safe. Yes; many camps are safe. But there are likewise many, many unsafe camps.

The testimony before our committee resulted in our hearing about many very tragic circumstances.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. DANIELS of New Jersey was allowed to proceed for 3 additional minutes.)

Mr. DANIELS of New Jersey. Mr. Chairman, we have heard of many tragic accidents where children were drowned, where children were molested because of inadequate personnel who were hired for the camps; where there were unlicensed drivers driving trucks taking boys and

girls out on picnics, and the testimony pointed up the fact that many accidents have happened.

The testimony before our committee does show that there are 26 States that have regulations only with respect to sanitation of youth camps. Only 15 States have any form of safety legislation. Only three or four States have qualifications regarding personnel. At the same time 24, or nearly one-half of the States of this country have relatively little or no camp regulations.

And, Mr. Chairman, I might say that the State of Michigan has a very model code. Since it was adopted the State of Michigan has the best safety code in this country. Since they adopted their law about 10 years ago they have only had one drowning whereas heretofore there were at least two or three drownings a year. I might also point out the fact that this State which has a model safety law also has the best safety record in the country.

Now, Mr. Chairman, I point out to you also that the president of the American Camping Association had a hand in the drafting of that legislation.

I also would like to point out the fact that all of the major camping organizations in this country support this legislation. It is not only supported by the Boy Scouts of America but is supported by the American Camping Association, by the YWCA, the Boys Group of America, and National Safety Council, the Salvation Army, and the National Catholic Camping Association.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

Mr. ESCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman and members of the Committee, I think that some clarification is necessary and I rise in support of the substitute amendment for the following reasons.

First of all, it should be clear that I have had no communications to indicate that all interested parties did have an opportunity to testify including, and I have not seen any formal communication of our Secretary of Health, Education, and Welfare, where he refused to testify.

The gentleman from New Jersey, our distinguished chairman (Mr. DANIELS), has always been most fair and straightforward in allowing witnesses to appear and to proceed in an orderly fashion. However in this case, because of the press to place a title on the higher education bill, it was, in his estimation, necessary to proceed as he did.

Secondly, hearings on H.R. 1264, the youth camp safety bill, were in process when the higher education bill came up, and the subcommittee had no markup of any youth camp safety legislation whatsoever. Title X was put on as an amendment to H.R. 7248, the higher education bill, in the full committee where it surely does not belong.

At the outset let me indicate that I am strongly in favor of a program of youth camp safety, and originally we had hoped to have a bipartisan measure in this respect. But here we are working on a bill with only a cursory look at the testimony because it is not even printed as yet. The cursory look that we have had in reexamining the testimony indicated that as yet we do not know the extent or the nature of the problems involved in youth camp safety.

That is the one point that came out very clearly.

Furthermore, although in general many organizations throughout the country support some form of legislation, there has never been any clear-cut testimony on the specific legislation before us now. The one thing that we do know from the testimony at the hearings came from the president of the National Safety Council—and I hope the Members will listen carefully to this—the president of the National Safety Council testified in the hearings that a child was safer at a properly run camp than he was in his own home, or neighborhood playground.

A report from the Department of Health, Education, and Welfare supports the testimony of the president of the National Safety Council. The HEW report indicates that 60 percent of all injuries to the 18 million children under 16 years of age occur in the home. Schools have a higher incidence of recreational injuries than youth camps, that is one thing that we know.

Given that, the House should accept the amendment offered by the gentleman from Texas, and then proceed in an orderly fashion with the statistical analysis that is necessary. In conducting such an analysis, and to ask some of the consultation should be made with the various groups interested in camping, not just a few national organizations, but the working camps, and the members thereof who are trying to do an effective job. Then, and only then, can we proceed, as I say, in an orderly way to develop an effective youth camp safety program for all of our children in this country.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the statement made by the gentleman who preceded me puts the finger right on the whole problem—the statement was made before the committee that a child was safer in a well-run camp than he was at home. That is true. That is all we are trying to do—to get well-run camps. There is no one who wants to do anything different in this bill.

I remember some 50 years ago when you could not pass a mine safety bill if you held people up with a six-gun. I remember some 40 years ago when you could never even think of passing an industrial safety bill. Always they had to have studies to find out the statistics. Let me give you the statistics.

This is a letter from Michael Kirwan. He says:

> The death of my son at the age of 15½ in August was a bizarre, ugly, and unnecessary tragedy. But even the death of my son was not nearly as important as the file of statistics I made on the number of camp tragedies.

That is a statistic to that man and to his family. This is all the statistics this House needs. What are we going to do—go out into the camps to find out how many children have been hurt? Is that the statistic you want? Does anybody in this place really believe that these camps are all safe and quiet little havens?

Let me tell you something. The brochures they have in most instances on these camps are so antiquated that they do not even cover or resemble what the camp looks like when the children are sent there by their parents. Anybody can be hired. No one needs to pass any kind of examination or test of any kind. There is not even a simple qualification or requirement as to their ability for training or anything.

A camp is an open place with absolutely no requirements as to who can run them and who cannot run them or who shall be allowed to run them.

This is the only place in the whole activity of youth in the entire country where there is not one single Federal regulation as to even minimum requirements for safety.

Drownings—do you want statistics on drownings?

Let me tell you about these youth camps. We visited some of the youth camps. I have seven grandchildren. I want to tell you, I would hesitate to send any one of them to some of the public camps I've seen.

Statistics—what do you want them on—tombstones? Do you want statistics in the obituary columns?

The statistics are the lack of Federal regulations whatsoever. There are no restrictions on who can run a camp and who can operate a camp, or what kind of a camp they have. There is no regulation on the brochures and the literature they send out which in many cases they don't resemble the place that they are going to go to. They advertise them and they say—"Qualified counselors". Qualified counselors—let me tell you—some of these counselors should never be allowed in youth camps. You do not know, Mr. PICKLE, and I do not know, Mr. PICKLE, when I send my children to camp what kind of people they are going to find there or the type of operator or even the type of campsite unless we have the time and can make a survey and visit.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman.

Mr. PICKLE. I can tell the gentleman that in Texas we have 100 or 125 camps and I have been through many of them and I have sent my children there. I say to you that the safety of those camps is as good as anything I think the Federal Agency would impose.

The gentleman from Pennsylvania does not need to appeal to us in such an emotional way. We are all for safety. No one is going to contend that we do not want to have proper regulations in any of these camps. But I ask you first—you ought to have the facts. You do not have

the facts and your committee does not have the facts. We have incomplete information on this.

Mr. DENT. That is where I disagree. This committee is often condemned on the floor of the House. It seems to be the popular thing here like in the United Nations where they beat the United States over the head. Here they like to beat the Committee on Education and Labor over the head. Go ahead and scoff—that is what they did in the United Nations, too.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

(Mr. DENT asked and was given permission to proceed for 3 additional minutes.)

Mr. DENT. Mr. PICKLE, you may have the finest camps in the world in Texas. I am sure there is nothing in this bill that would make them unsafe. I think if you have fine camps, that is a great credit to your State. But there are States that have no regulations whatsoever. If they do not do this for themselves, it has been a policy of the Federal Government where a State is unable or unwilling to do that which should be done for the health, welfare, and protection of its citizens, then the Federal Government is bound by the Constitution to do it.

I remember the fight for a Federal safety law in mining, an act which was considered in this House in 1951 and 1952, and has been a continuing fight ever since. They said it was the craziest thing in the world—that they had safe mines. We will never have safe mines—but they are safer than they were.

We will never have accident-proof camps—but they will be safer than they are now.

You can talk all you want about finding a good camp. Sure, there are many of them run by honest, decent people, and the honest, decent camp owners of this country want this kind of legislation. They are not afraid of minimum laws regarding safety. What are they afraid of? They have good camps. It is only those who run fly-by-night camps, the same as those who operated the fly-by-night little industries that were hiring child labor that we are concerned with. This is something that sooner or later must be done. Whether you do it now or later, it will be done; but I would suggest that we do it now before tragedy strikes again in some home, which may be your own home.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. PEYSER. Mr. Chairman, I would like to know how many Members are interested in talking on the amendment.

Mrs. GREEN of Oregon. On this amendment only; I am not suggesting a limitation on the title.

Mr. PICKLE. Mr. Chairman, I object.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. PEYSER. Mr. Chairman, I object.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I move that all debate on this amendment close in 20 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentlewoman from Oregon.

The motion was agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. FISHER).

Mr. FISHER. Mr. Chairman, everyone is in favor of safety, whether it be in a factory, in a home, on a farm, on a campus, in a nursery, in a camp—or wherever.

Essentially, I am sure all will agree that safety in any activity is achieved because individuals apply commonsense and practices that are based upon experience.

That is particularly true in the operation of youth recreation camps. Those who operate such camps are in the safety business. For them safety is the name of the game.

It happens there are around 50 youth camps in my district—probably more than any other one district in the country. These camps are efficiently operated, accommodate thousands of youngsters who are attracted there from practically every State in the Union each year. They are proud of their remarkable safety record, and so are the parents of the youngsters who go there.

In most of these camps an experienced staff member is provided for each four to eight of the boys and girls, and their counselors are real professionals.

These camps are already well supervised. Texas State health laws require safety and health in all camps, with annual inspection. We already have State water safety laws, water quality laws, and other general safety requirements which must be observed.

If safety problems are bothersome in other areas of the country, I suggest you send those interested down to our area, and find out how it is done—most successfully, without any Federal controls.

I can tell you that I am informed that practically every one of the camps I represent are opposed to Federal intervention, because they know that as applied to them it is simply unnecessary.

These people I represent inform me they were unaware of hearings on this subject until after the bill was reported. They are convinced this is precipitate action and should be given further study.

Now, what would these proposed Federal standards entail? They cover everything imaginable. Let me cite a few.

"Personal qualifications for director and staff." Are these people going to have to look to Washington to determine whom they can hire—or fire?

Here is another one: "Ratio of staff to campers." Have we reached the point where camp operators are so dumb they must look to Washington for such decisions?

Here is another example: "Vehicle condition and operation." Again, what gives a bureaucrat in Washington, who would write the standards, the superior knowledge which would qualify him to dictate to camp operators the age, horsepower, and I suppose general appearance, of every vehicle that is used. If an operator chooses to use a cart pulled by a pony, that might or might not meet Federal standards.

And listen to this one: "Building and sight design; equipment; and condition and density of use." Will you not agree with me that camp operators are a hundred times better qualified to decide on the size, shape, and dimensions of buildings they use, than would be the Washington bureaucracy? How dumb do they think the people are who operate youth camps?

These are but a few of scores of other standards which Washington experts could design, with the open-ended authority provided by this bill.

Mr. Chairman, I earnestly hope the pending amendment will be adopted.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, my quarrel is not with the fact that we should have camp youth safety. I agree with this proposal. My problem is stated as a question: What is that subject doing in an Education and Labor bill? I have to sympathize with the Secretary of HEW, because we have literally made that Agency of Government a garbage disposal. Every type of legislation that we have no place for we send down to HEW. I am not surprised at all that the Department is unworkable and unmanageable. They have people employed down there simply "looking busy" which reminds me of an ordnance plant in Nebraska during World War II. The workers there were asked, "What is your job here?"

They said, "Just carry a wrench around and look busy."

That is the identical situation that we have created in the Department of Health, Education, and Welfare.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I rise to compliment the gentleman from Iowa in raising what I consider to be a highly important point at this juncture of the debate—and that is, just what is a youth camp safety, and a highly regulated Federal program of youth safety doing in a higher education bill? No wonder the American people begin to wonder what the Congress of the United States is doing on any given subject when it includes such unrelated and unstudied phases as this title XIX of the higher education bill. I commend the gentleman from Iowa on raising this all-important issue because, in my opinion, this title has absolutely no place in any higher education bill. Although the great majority of the Members of Con-

gress are extremely sympathetic with the necessity of assuring the protection and safeguarding the health and well-being of the youth of the Nation attending camps, this title clearly does not belong in any higher education legislation. Therefore, a vote in support of the Pickle amendment which is now being considered is a responsible vote because, first, the subject should be more intensively studied to determine whether the Secretary of the Department of Health, Education, and Welfare should be granted all the power given to him in this title and to determine whether—under the 10th amendment of the Constitution—the Federal Government should even be in this field, and second, there should be a clear statement that this House will not be cowered into a position of having to do something just because the U.S. Senate was irresponsible enough to add this title into the Higher Education Act. I rise in support of the amendment as submitted by the Member from Texas (Mr. PICKLE), because I feel it is more responsible than title XIX which is now being considered.

Mr. SCHERLE. Mr. Chairman, this amendment establishing youth camp safety should be a State prerogative and not regulated here in Congress. Each State has a responsibility. I do not know what a Federal law would have done to prevent my colleague, the gentleman from Pennsylvania (Mr. DENT) from having difficulty with a canoe. Is it the fault of the canoe, or the lack of a Federal law? Commonsense must also prevail as far as personal decisions are concerned.

It is important for parents to make sure where their kids are going—don't rely on brochures. Jurisdiction should be first a parental responsibility coordinated with State legislation and let us not continue to saddle HEW with legislation that should be maintained at the State level.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, one of the reasons I think the committee ought to support the title as it is now before us is that it really sets only a very general and, I think, an acceptable standard of safety and of responsibility on the part of the operators of these camps, a standard I do not think anyone can really say is wrong. It provides that the Secretary can implement this by regulation. That would be the time to work at the specifics of these regulations. It also provides for the States to act on their own.

I am particularly impressed, Mr. Chairman, by a letter from the American Camping Association, Inc., which endorses this, a letter signed by John J. Kirk, the national president of the American Camping Association, which reads as follows:

OCTOBER 7, 1971.

Hon. DOMINICK V. DANIELS,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DANIELS: I have just had the opportunity of reviewing the Youth Camp Safety Bill H.R. 7248 with amendments, and I personally feel it is one of the most outstanding pieces of proposed legislation that I have ever seen. It is my hope that the members of your committee and your colleagues in the House of Representatives will look favorably upon this bill and that very soon it will become the law of the land.

As a camp director of over twenty years, I know I speak for all responsible camp directors in saying that we commend you and the members of your committee for proposing such meaningful and needed legislation. If this bill becomes a reality, it will contribute most substantially to the safety and well-being of millions of children who now attend our summer camps.

On behalf of all camp directors and the millions of parents who send their children to camp each summer I wish to thank you and the members of your committee for your thoughtful and detailed analysis of the youth camp movement in America and for the efforts you and your colleagues on the Select Subcommittee on Labor have expended in proposing this fine piece of legislation. May I wish you every success in securing its approval and immediate passage.

Sincerely,

JOHN J. KIRK,
National President,
American Camping Association, Inc.

Mr. Chairman, this is an association of people who run camps. They are saying they favor this legislation. I think if they find this to be a useful piece of legislation that this speaks very well for the committee that has had the responsibility for drafting this title.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Chairman, I favor the amendment presently before us. I was a camp director for 11 years, which helped to put me through medical school. I now serve on the camping and safety committee of the National Council of the Boy Scouts of America. I have established BSA, and YMCA camps. I think this is no time for gruesome, tombstone, emotionalism; nor for likening apples to oranges and drawing similarly erroneous conclusions. I say to the Members of this committee that every Boy Scouts of America camp is inspected not only annually on a regional basis, but also at least every 2 years by Russell Turner, or his designees as director of the camping and engineering committee of the Boy Scouts of America, who I recognize as having said in the quoted letters that he would not oppose any safety measures for better camps. We all favor health and safety. I am sorry for every loss or accident—yes even illness in campers, but I will bet they are safer and healthier at camp than at home or school. I have had boys fall out of trees. I sat on the board of directors in a college last weekend with a boy in whom I took the first stitches I ever took. I have had boys burned. I have had them almost drowned. I have pulled them out. I have had them copperhead-snake bit. Of course, there is danger in summer camping activities.

But, Mr. Chairman, the point is that it is not a Federal responsibility. There is a point of responsibility with the parents before they let that child go to the camp to see that it is safely directed, and there is a responsibility with the organizations, and the States of the Union, to see that necessary regulations are enforced. It is not a Federal responsibility at this time.

I hope the amendment does pass.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I rise to support the substitute amendment of the gentleman from Texas (Mr. PICKLE). Let me point out from the beginning that I am as concerned as anyone in this country about safety standards for all youth camps in this country and I commend my friend, the gentleman from New Jersey (Mr. DANIELS) for his concern. It certainly is a matter of concern for me and all of my colleagues in this House to realize that an estimated 250,000 accidents occur each year among the 8 million or more youngsters who attend summer camps.

The problem that I envision is the fact that we are here handing over to a Federal agency the responsibility of running everything which will most likely result in its being unable to run anything. I question how many Members of this House, or of the committee who offered this bill, have paused to think of how many summer camps exist in this country. If each camp averaged 100 youngsters per year, this would mean that we are talking about 800,000 camps. If the average is 50 per year, which is probably closer to the actual figure, then we are talking about 1,600,000 camps. How much money and how many employees will be required to adequately supervise this many camps?

In the report of the Committee on Health, Education, and Welfare it is suggested that this program will cost $1 million for each fiscal year. This would amount to less than a dollar per year per camp. Is this realistic? A member of the staff of the Committee on Health, Education, and Welfare informed a member of my staff that few additional employees would be required to carry out this program. Does that make any sense?

The committee report on page 85 and following pages gives the impression that this will be a simple matter of passing on minimal standards to each State for youth camp safety and that each State will assign some agency to see that these standards are enforced. Fine, if it were that simple.

Mr. Chairman, a reading of the bill places this problem in an entirely different perspective. A State must meet some 11 different requirements as specified in the bill or be subjected to the wrath of the Secretary of Health, Education, and Welfare. If these are not met then the Secretary of Health, Education, and Welfare shall be responsible for the enforcement of the "youth camp safety standards in States which do not have in effect a State plan approved" by the Secretary. Under the provisions of the bill the Secretary of Health, Education, and Welfare has the right to "enter and inspect any youth camp and its records, may question employees, and may investigate

facts, conditions, practices, or matters to the extent he deems it necessary or appropriate."

Mr. Chairman, this is not only impractical—it is impossible. What kind of "army" of HEW workers would be necessary, and at what type of prohibitive cost, if the provisions of this title are to be carried out? I submit that this is another classic "boondoggle" which sounds great just like apple pie and motherhood but will open Pandora's box and set up another bureaucratic monster which will do little more than devour the taxpayer's dollars. I renew my opposition to title XIX of this bill. Certainly there is a need for safety in youth camps, but is there a pressing need for Federal legislation? There are still State governments which also have legislative responsibilities. We do not have the facts to act upon such a far-reaching program which would be established by title XIX. We do not have the benefit of a printed record of hearings. We do not know how many Federal officials will be required to enforce the provisions of title XIX. I have yet to hear how many camps will fall within the jurisdiction of title XIX. The amendment of the gentleman from Texas will provide us with the facts. I say again—there is a need for safety regulation but has it been shown that there is a pressing need for Federal legislation? Is this body willing to make all State legislatures subservient to the discretion of the Secretary of Health, Education, and Welfare without having the facts showing a pressing need for Federal intervention? State legislatures also have the right to pass safety legislation. Is there not anything left which can best be done on the local level? If the State government has not acted, why has it not acted? What is the nature of all the camps which would fall under the jurisdiction of title XIX? These are questions which should be answered as broad and far reaching as title XIX.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I must say I am a little amazed by some of the things I am hearing said about camp safety here.

There is a problem of camp safety. People seem to be saying, "We do not have any staistics dealing with safety in camps."

Statistics are very simple. I have a list right here of 35 children who were killed this summer, and this is one section of the country. They were all killed in camps; killed in accidents, for the most part, which never should have happened. There were drownings with no lifeguards on duty. Six were killed in a truck with a teenage girl driving on the highway, who had no proper license to drive a group of children, and there were no regulations in the camp as to who would or could drive.

We have lists from California, New Hampshire, Connecticut, Massachusetts, Minnesota, Oklahoma—I can name all these States with deaths in this year.

There were thousands of accidents. The last real study that was done was 10 years ago by an insurance company, which showed over 10,000 accidents in camps, many of which could have been avoided.

The Congress has passed legislation to protect our workers, our children in school, the wild mustangs, the seals and the whales, and I do not understand why we cannot pass legislation which simply says the Federal Government will establish som minimum standards that will protect our children in camp, and we will ask the States to implement them.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

(By unanimous consent, Mr. SCHEUER yielded his time to Mrs. GREEN of Oregon.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

(By unanimous consent, Mr. STEIGER of Wisconsin yielded his time to Mr. ESCH).

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I know many of the Members have been asking why this title is here. This is a very important title.

I should like to assure the Members I do not think it is entirely fair to blame either the gentlewoman from Oregon or the chairman of the full committee (Mr. PERKINS).

I did not want the ethnic studies title in this bill. I wanted a separate bill.

The gentleman from Indiana (Mr. BRADEMAS) did not want to include the National Institute of Education title in this bill.

The gentleman from New Jersey (Mr. DANIELS) did not want to include in this bill the camp program.

We would much rather have had these bills come here separately. But the situation we faced was beyond our control.

The other body has inserted these bills in their higher education legislation as a package. If we do not take action in the House on this legislation we will go to conference and we will be confronted with a totally non-negotiable situation. This is why we have put in these titles.

I know Members are irritated. Many Members ask why these are brought in in this manner. We wish they did not have to be brought in in this manner. But the situation was not strictly within our control.

If we fail to put these titles in this package, we will go to conference and have to confer on the legislation. and we will have to take it or leave it. Assume for a moment that we leave it. Suppose we do not want to take their bill. They will hold fast, and then we will hold up this entire higher education bill simply because we do not have anything to negotiate with.

I hope the Members will not blame the gentlewoman for these titles and approve this entire bill.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I think first it should be clear what the Department of Health, Education, and Welfare has said. It said:

> Because of the limited amount of information available about the accidential injury problem in youth camps further study of the extent and nature of the problem, including a review of the practices and requirements in the various institutions regarding such activities is necessary to provide a basis for determining the program needs to provide improved protection of health and safety of youth while attending camp.

According to the records, that was the specific statement of the Department of Health, Education, and Welfare which supported in effect the amendment offered by the gentleman from Texas (Mr. PICKLE) calling for a study.

I would also like to clarify one or two other points.

First and foremost, the statistics that we do have are incomplete. Second, the various camps and associations reports are inconsistent. There is an inconsistency between the various camping associations on the one hand and the various individual camps on the other hand. Third, the gentleman from New York, who is a cosponsor of this title, has suggested that there are statistics available as to individuals who were killed this summer in a truck accident in which there was a young lady who was driving a car without a permit.

That, gentlemen, is the essence of the reason why we should support this study. Any regulation we have, if it is disobeyed, will not bring about safer conditions in our camps. By the admission of the gentleman from New York himself, the girl was operating without a license. So, having a regulation per se, would not necessarily save those children's lives.

In closing there is one citizen here who should be mentioned and recognized today. That, I think, is Mitch Kirman who has suffered a personal tragedy and who has labored so long and tirelessly for an effective Youth Camp Safety Act. I respect and applaud the work that he has done.

But if we enact an ineffective youth camp safety bill, and if lives continue to be lost, because we have developed policy and regulations that are not effective, because we just have not had the necessary investigation, then I suggest that would be the cruelest hoax of all to the memory of Mitch Kirman's son and in the interests of our young people who attend camps yearly.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. DANIELS).

(By unanimous consent, Mr. DANIELS of New Jersey yielded his time to Mrs. GREEN of Oregon.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, the committee has stated that they would prefer that this bill not be before us. They were caught unaware, they said, because this measure came from the other body. In the period of time available they did not even have time for the hearings neces-

sary. There is obviously a lack of facts and statistics.

The camps in my area contend by the dozens that they had no notice of this pending bill. They say they would like to testify on it. So I have submitted to you here a substitute which does call for a survey and a study.

The point I want to make is this, Mr. Chairman: I have submitted to you almost exactly the same amendment that this committee recommended the House should adopt 2 years ago. You have not gathered any additional or material facts between that time and now. I am asking that you do the same thing now that you wanted to do 2 years ago.

I do say we should finally face up to the facts involved in this matter in a very sensible and practical way. We need information that is sufficient, and none of us are going to duck the issues if these facts are proven.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to my colleague from Texas.

Mr. FISHER. I think the gentleman should emphasize, as the gentleman from Michigan did a moment ago, the fact that HEW in a formal report on this matter expressed the opinion that they do not have enough facts concerning the history of accidents in camps upon which to base a judgment as to whether this legislation should be acted upon.

Mr. PICKLE. That is correct.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Chairman, it seems to me that it would be most unfair if the impression is left that this has been legislation that has been considered very lightly. I know of no chairman of any subcommittee in the House for whom I have a greater regard than the gentleman from New Jersey. I have watched his work on the committee and he does an excellent job.

It has been said that there were not sufficient hearings held on this legislation. Hearings were held on this legislation in the 90th Congress and they were printed. Hearings were held on this legislation in the 91st Congress and they were printed. Hearings were also held in the 92d Congress. Those are the only hearings that are not available to us at the present time.

Mr. Chairman, I am advised that there are 250,000 youngsters annually who require medical attention in hospitals beyond a day and a half who are injured in camps.

It seems to me that the gentleman from New York (Mr. PEYSER) has indicated the need for this kind of legislation, and he was quite right. We pass all kinds of legislation to protect birds or four-legged animals as he indicated. Why not consider the 250,000 youngsters that are injured each year?

The legislation which is before us now requires only minimum Federal standards. I do not doubt the word of the gentleman from Texas that the camps in Texas have very high standards. If that is so, then the legislation will not affect them. These are only Federal minimum standards. That is what the gentleman from New Jersey is recommending.

Now, with regard to recommendations, I am advised that copies on the Esch bill, which I understand will be introduced later if this amendment is defeated, and the Daniels bill were given to many groups of people, and after they had had an opportunity to study both bills they came back and recommended the adoption of the Daniels bill.

Let me read from a copy of a letter from the Boy Scouts of America, signed by Mr. Russell A. Turner, manager, Camping and Engineering Service in which he states in part as follows:

> Within the last 90 days we have indicated support for Mr. Daniels' bill, H.R. 1264, and the most recent, H.R. 7248, contained in title XIX of the Higher Education bill which is a modification of H.R. 1264 based on hearings conducted this summer.
>
> These bills have been very carefully reviewed by us and by the American Camping Association and others. The Boy Scouts of America finds this bill generally constructive and helpful.
>
> We concur that immediate safety standards are important to the welfare of youth.
>
> We would hope that you and your associates might see fit to join forces and support H.R. 7248.

Mr. Chairman, we also have telegrams from the Salvation Army in support of this bipartisan effort on the part of Mr. DANIELS of New Jersey and Mr. PEYSER. We have a letter signed by the director of camping services of the national YWCA, the American Camping Association, and so on.

So, Mr. Chairman, it seems to me in summary that this is legislation that has been carefully considered. The committee has been looking at the statistics for three sessions of Congress; that is, 5 years, and to say it has not been given adequate study is misleading.

We also have a letter from Secretary Richardson that says that his Department has the authority to spend the funds for a study and if it does not have a higher priority in the next year or two then, maybe, it will make a study.

Mr. Chairman, that is not a satisfactory response to those 250,000 injuries sustained each year in our youth camps.

Mr. Chairman, I hope that the amendment will be defeated and support will be given to the bill reported out by Mr. DANIELS of New Jersey's subcommittee.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. PICKLE).

The question was taken; and on a division (demanded by Mrs. GREEN of Oregon) there were—ayes 52, noes 53.

TELLER VOTE WITH CLERKS

Mr. PICKLE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PICKLE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Messrs. PICKLE, DANIELS of New Jersey, ESCH, and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 184, noes 166, not voting 81, as follows:

[Roll No. 353]

[Recorded Teller Vote]

AYES—184

Abbitt	Fountain	Nichols
Abernethy	Fuqua	O'Konski
Alexander	Garmatz	Passman
Andrews, Ala.	Goldwater	Pelly
Andrews, N. Dak.	Gonzalez	Pettis
	Goodling	Pickle
Archer	Griffin	Pike
Arends	Gross	Powell
Ashbrook	Grover	Price, Tex.
Baring	Gude	Pryor, Ark.
Bell	Hagan	Purcell
Bennett	Hall	Quie
Betts	Hammer-schmidt	Quillen
Bevill		Rarick
Biester	Harsha	Rhodes
Blackburn	Harvey	Robinson, Va.
Bow	Hays	Robison, N.Y.
Bray	Heckler, Mass.	Rogers
Brooks	Henderson	Rousselot
Brotzman	Hicks, Wash.	Runnels
Broyhill, N.C.	Hillis	Ruth
Buchanan	Hogan	Sandman
Burleson, Tex.	Hull	Satterfield
Burlison, Mo.	Hunt	Saylor
Byrnes, Wis.	Hutchinson	Scherle
Byron	Ichord	Schmitz
Caffery	Johnson, Pa.	Schneebeli
Camp	Jonas	Schwengel
Carter	Jones, N.C.	Scott
Casey, Tex.	Karth	Shoup
Cederberg	Kazen	Shriver
Chamberlain	Keating	Sikes
Chappell	Keith	Smith, Calif.
Clancy	King	Snyder
Clark	Kuykendall	Spence
Clausen, Don H.	Kyl	Springer
	Landgrebe	Steed
Clawson, Del	Latta	Steele
Cleveland	Lennon	Steiger, Ariz.
Collier	Long, Md.	Steiger, Wis.
Collins, Tex.	McClory	Stratton
Colmer	McCollister	Stubblefield
Conable	McDonald, Mich.	Talcott
Crane		Teague, Calif.
Daniel, Va.	McEwen	Terry
Davis, Wis.	McKevitt	Thompson, Ga.
de la Garza	McMillan	Thomson, Wis.
Dellenback	Macdonald, Mass.	Thone
Devine		Veysey
Dickinson	Mahon	Waggonner
Dorn	Mann	Wampler
Dowdy	Mathias, Calif.	Ware
Downing	Mathis, Ga.	Whalley
Duncan	Mayne	Whitten
du Pont	Mazzoli	Widnall
Edwards, Ala.	Michel	Wilson, Bob
Erlenborn	Miller, Ohio	Winn
Esch	Mills, Md.	Wylie
Eshleman	Mizell	Wyman
Evins, Tenn.	Myers	Young, Fla.
Fisher	Natcher	Young, Tex.
Flowers	Nedzi	Zablocki
Flynt	Nelsen	Zwach

NOES—166

Abourezk	Davis, S.C.	Green, Pa.
Abzug	Delaney	Hanley
Adams	Dellums	Harrington
Addabbo	Denholm	Hastings
Albert	Dent	Hathaway
Anderson, Calif.	Dingell	Hawkins
	Donohue	Hechler, W. Va.
Anderson, Ill.	Dow	Heinz
Anderson, Tenn.	Drinan	Helstoski
	Dulski	Hicks, Mass.
Annunzio	Eckhardt	Holifield
Badillo	Edmondson	Horton
Begich	Edwards, Calif.	Howard
Bergland	Eilberg	Hungate
Biaggi	Evans, Colo.	Jacobs
Bingham	Fascell	Jones, Ala.
Boggs	Fish	Kastenmeier
Boland	Flood	Kemp
Bolling	Foley	Kluczynski
Brademas	Ford, Gerald R.	Kyros
Brasco	Ford, William D.	Landrum
Brinkley		Leggett
Broomfield	Fraser	Lent
Burke, Mass.	Frenzel	Link
Burton	Frey	McCormack
Byrne, Pa.	Fulton, Tenn.	McDade
Carey, N.Y.	Galifianakis	McFall
Celler	Gallagher	McKay
Collins, Ill.	Gaydos	McKinney
Conte	Gettys	Madden
Conyers	Giaimo	Matsunaga
Corman	Gibbons	Meeds
Cotter	Grasso	Melcher
Daniels, N.J.	Gray	Mikva
Danielson	Green, Oreg.	Minish

Mink	Pucinski	Shipley
Mitchell	Railsback	Slack
Mollohan	Randall	Smith, Iowa
Monagan	Rangel	Stanton,
Moorhead	Reid, N.Y.	James V.
Morgan	Reuss	Stokes
Morse	Riegle	Sullivan
Mosher	Rodino	Symington
Moss	Roe	Thompson, N.J.
Murphy, Ill.	Roncalio	Tiernan
Murphy, N.Y.	Rooney, N.Y.	Van Deerlin
Nix	Rooney, Pa.	Vanik
Obey	Rosenthal	Vigorito
O'Hara	Rostenkowski	Waldie
O'Neill	Roush	Whalen
Patten	Roy	Whitehurst
Pepper	Roybal	Williams
Perkins	Ryan	Wolff
Peyser	St Germain	Wydler
Podell	Sarbanes	Yates
Preyer, N.C.	Scheuer	Yatron
Price, Ill.	Seiberling	

NOT VOTING—81

Ashley	Gubser	Pirnie
Aspin	Haley	Poage
Aspinall	Halpern	Poff
Baker	Hamilton	Rees
Barrett	Hanna	Roberts
Belcher	Hansen, Idaho	Ruppe
Blanton	Hansen, Wash.	Sebelius
Blatnik	Hébert	Sisk
Brown, Mich.	Hosmer	Skubitz
Brown, Ohio	Jarman	Smith, N.Y.
Broyhill, Va.	Johnson, Calif.	Staggers
Burke, Fla.	Jones, Tenn.	Stanton,
Cabell	Kee	J. William
Carney	Koch	Stephens
Chisholm	Lloyd	Stuckey
Clay	Long, La.	Taylor
Coughlin	Lujan	Teague, Tex.
Culver	McCloskey	Udall
Davis, Ga.	McClure	Ullman
Dennis	McCulloch	Vander Jagt
Derwinski	Mailliard	White
Diggs	Martin	Wiggins
Dwyer	Metcalfe	Wilson,
Edwards, La.	Miller, Calif.	Charles H.
Findley	Mills, Ark.	Wright
Forsythe	Minshall	Wyatt
Frelinghuysen	Montgomery	Zion
Griffiths	Patman	

So the amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XX—MISCELLANEOUS

REDESIGNATION OF SECTIONS

SEC. 2001. Title XII of the Higher Education Act of 1964 is redesignated as title XVI, and sections 1201, 1202, 1204, and 1205 of such Act are redesignated as sections 1601, 1602, 1604, and 1605, respectively, and cross-references to such title and such sections are redesignated accordingly.

WAIVER OF MATCHING REQUIREMENT IN CERTAIN CASES

SEC. 2002. Part A of the General Education Provisions Act is amended by adding at the end thereof the following:

"MODIFICATIONS OF MATCHING REQUIREMENTS

"SEC. 407. Where a provision of law relating to an applicable program limits the amount of Federal assistance which may be made available for carrying out the program to a specified portion of the cost thereof or requires a specified non-Federal contribution with respect to the program, the Commissioner may approve assistance to institutions of higher education (as defined in section 1601(a) of the Higher Education Act of 1965) for such program in excess of the portion so specified, or a lesser non-Federal contribution than that so specified, if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of such applicable program."

APPLICATION OF CERTAIN LAWS TO PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 2003. (a) Section 103(a) of the Higher Education Act of 1965 is amended by striking out "each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands" and inserting in lieu thereof "to American Samoa".

(b) Section 513(c)(2) of such Act is amended (1) by striking out the first sentence and inserting in lieu thereof the following: "Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior.", and (2) by striking out the last sentence thereof.

(c)(1) The first sentence of section 519 (a) of such Act is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 519(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(d) Section 602(a)(2) of such Act is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(e) Section 103(d)(1) of the Higher Education Facilities Act of 1963 is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(f) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(g) Section 302(a)(3)(B) of the National Defense Education Act of 1958 is amended by striking out "and the District of Columbia" and by inserting in lieu thereof ", the District of Columbia, Puerto Rico, Guam, and the Virgin Islands".

(h) Section 1008(A) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(i)(1) Section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 202(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(j)(1) Section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 302(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(3) Section 307(b) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and inserting in lieu thereof "American Samoa".

(k)(1) Section 502(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(2) Section 522(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(3) Section 531(c)(1) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

EFFECTIVE DATE

SEC. 2004. Except as otherwise provided in this Act, each of the provisions of this Act, and each amendment made by this Act, shall become effective July 1, 1972.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XX may be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOMFIELD: page 277 after line 20, insert:

"SEC. 2001. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired."

And renumber the remaining sections of title XX accordingly.

Mr. BROOMFIELD. Mr. Chairman, my amendment would postpone the effectiveness of any U.S. district court order requiring the forced busing of children to achieve racial balance until all appeals to that order have been exhausted.

Mr. Chairman, the American people have time and again expressed their overwhelming opposition to forced busing. The most recent Gallup poll shows that 74 percent of the people are against busing and favor the neighborhood school concept.

Congress has repeatedly reflected the mandate of the American people in stating its opposition to forced busing merely to arrive at a racial balance in our schools.

Nonetheless, some U.S. Federal courts have ordered busing in recent months. In many instances, I feel that these orders are breaking new constitutional ground—that these orders have created a new and unprecedented extension of existing law.

Mr. CAREY of New York. Mr. Chairman, will the gentleman yield for a moment?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. CAREY of New York. Mr. Chairman, would the gentleman accede to a unanimous-consent request, so that the committee can hear the amendment read again?

Mr. BROOMFIELD. Yes, I would.

Mr. CAREY of New York. Mr. Chair-

man, I ask unanimous consent that the amendment be read again.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request that the amendment be read again?

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, may I make a parliamentary inquiry?

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. GERALD R. FORD. If the amendment is read again it will not then be subject to a point of order if it is not germane?

The CHAIRMAN pro tempore. The Chair will state that a point of order relative to the germaneness of this amendment would come too late.

Mr. GERALD R. FORD. Mr. Chairman, I withdraw my reservation.

Mr. CAREY of New York. Mr. Chairman, may we discuss the Chairman's ruling?

The CHAIRMAN pro tempore. Does the gentleman from Michigan yield to the gentleman from New York?

PARLIAMENTARY INQUIRY

Mr. CAREY of New York. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. CAREY of New York. Mr. Chairman, since the author of the amendment has agreed that he would accede to the request that the amendment be read again, and the Chairman acceded to a point of order that the Committee was not in order in the reading of the amendment——

The CHAIRMAN pro tempore. The Chair will put the unanimous-consent request. Is there objection to the unanimous-consent request of the gentleman that the amendment be reread.

Mr. GERALD R. FORD. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. CAREY of New York. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. Does the gentleman from Michigan yield to the gentleman from New York for a parliamentary inquiry?

Mr. BROOMFIELD. No, Mr. Chairman. I have a short statement and I should like to complete it.

Mr. Chairman, I am not alone in stating this view. Only last September, Chief Justice Warren Burger said some Federal judges were misreading the Court's April decision on busing by ordering more than the law requires.

Given these conflicting judicial statements on just what the law says in regard to busing, it is easy to understand the confusion and emotion that surrounds the busing issue.

We can expect that many of these decisions ordering busing will be appealed and that on appeal they may be overturned. However, the appeals process is a long and difficult one. It may take 2 or 3 years. Thus, before the courts can completely decide this question, before the law is crystallized once and for all, busing will have become an accomplished fact.

Mr. Chairman, forced busing may prove to be an expensive, time consuming and disruptive mistake.

My amendment would only delay a lower court's busing order until all those parties have had a chance to plead their case at their court of last resort.

I believe that it is a fair and equitable approach to this most difficult problem. It gives the courts the time they need to adjudicate this question completely. I urge my colleagues to lend their support to this amendment.

SUBSTITUTE AMENDMENT OFFERED BY MR. WHITTEN FOR THE AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. WHITTEN. Mr. Chairman, I offer a substitute amendment.

The CHAIRMAN. The Clerk will report the substitute amendment.

PARLIAMENTARY INQUIRY

Mr. CAREY of New York. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAREY of New York. Mr. Chairman, if a point of order could be lodged against the amendment in its original form, will a point of order be allowed against the substitute if it is not germane?

The CHAIRMAN pro tempore. The Chair cannot answer that question until the Chair has heard the substitute.

The Clerk will report the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITTEN as a substitute for the amendment offered by Mr. BROOMFIELD:

"SCHOOL BUSING"

"SEC.—. (a) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

"(b) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school."

, and renumber the succeeding section accordingly.

POINT OF ORDER

Mr. BOGGS. Mr. Chairman, I make the point of order that the substitute amendment offered by the gentleman from Mississippi (Mr. WHITTEN) is not germane to title XX of the Higher Education Act and is out of order at this point in the bill.

The CHAIRMAN pro tempore. Is the gentleman from Louisiana raising the point of order to the substitute for the amendment? Or is the point of order being raised to the amendment?

Mr. BOGGS. Could I have had the opportunity, Mr. Chairman, to raise a point of order to the original amendment offered by the gentleman from Michigan, I would have raised it then, but I am now raising a point of order to the substitute, which is really not germane to the original amendment and certainly not germane to title XX of the bill.

The CHAIRMAN pro tempore. The Chair will hear the gentleman from Louisiana.

Mr. BOGGS. The gentleman from Mississippi (Mr. WHITTEN) seeks to incorporate in the higher education bill a provision dealing with a subject that has no relation to higher education—the question of court decisions having to do with busing.

As far as my knowledge is concerned, it has never been related to higher education and colleges, whether they be undergraduate or graduate colleges, which is the subject dealt with in this bill.

The proposal advanced by the gentleman from Mississippi is on an entirely different subject.

The CHAIRMAN pro tempore. Does the gentleman from Mississippi desire to be heard on the point of order?

Mr. WHITTEN. Yes, Mr. Chairman.

The amendment I offer is a substitute for an amendment which is now germane to the bill. This being in the nature of a substitute and directed and handled in the same way, I respectfully submit that it comes within the protection granted to the Broomfield amendment and therefore becomes germane at this point as a substitute for an amendment which is properly before the House.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from Louisiana makes a point of order against the amendment offered by the gentleman from Mississippi (Mr. WHITTEN) as a substitute for the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD).

The amendment offered by the gentleman from Michigan (Mr. BROOMFIELD), states that in the "case of any order on the part of any U.S. District Court which requires a transfer or transportation of any student or students"—the thrust of that amendment goes to court orders.

The substitute offered by the gentleman from Mississippi (Mr. WHITTEN) to the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) goes to school busing and the use or withholding of Federal funds.

So the Chair holds that the substitute offered by the gentleman from Mississippi (Mr. WHITTEN) is not germane to the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) and, therefore, sustains the point of order.

Mr. BOGGS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan.

Mr. Chairman, I know that we are coming to some amendments that will be highly controversial and highly emotional. Before discussing them I should like to commend the gentlewoman from Oregon and the other members of this committee for a very fine job under most difficult circumstances. The committee has brought here a consolidated bill deal-

ing with the whole area of higher education. It is a good bill and I hope it passes.

Mr. Chairman, to the best of my knowledge this is the first time that this has occurred, and I know that it is quite a task to dispose of all 20 titles contained in this bill. But in many ways it is best for us to have some knowledge of what we are asked to do in the whole area of higher education at the Federal level than to come in as we have in the past with piecemeal legislation. And the fact is that many of us do now have a firm grasp of the full picture in the field of higher education. I am sorry that my good friend from Illinois plans to offer an amendment dealing with the legislation that was considered here and rejected on Monday last.

I say that not because I am in opposition to aid to elementary education. I say it because I think it is an entirely different subject; that it is not related to higher education; that the problems of elementary and secondary education are quite different generally throughout our country from those of higher education and to try to tie them together in this bill is an illogical marriage of two disparate subjects. That amendment and this amendment are not germane to higher education. But, it is coming and we will face it.

In that amendment I am informed that the whole question of busing will be debated.

Now, the gentleman who has offered this amendment seeks, I presume, to come to that discussion prior to the gentleman from Illinois. I would hope that his amendment would be defeated and I would hope that an amendment to strike the subject from the proposal of the gentleman from Illinois would prevail.

Mr. Chairman, I know that in polls conducted throughout the country when you go ask parents, "How do you stand on busing," the answer comes back almost invariably, "I am against it." Yet I also know that if you went and asked the same parent, "How do you stand on public education," the answer would come back invariably, "I am for it." But this does not stop busing. This is a vain and useless thing.

But, Mr. Chairman, our function here today, as it is in all legislative questions, is trying to see to it that we do what we consider best for our country.

In this particular case what is best for our country is to provide the best education we can have in this particular bill in the area of higher education and in the other bill in the area of elementary and secondary education.

Now, you know and I know that busing comes about from a whole variety of reasons. We had it for years merely as a transportation device to get people where they were going. Then we had it for years to preserve segregation. Everyone knows that. Now we have it because the courts have handed it down and said this is what must happen in certain areas of the country. This bill is not going to change that and lets not fool the people.

The CHAIRMAN pro tempore. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. BOGGS was allowed to proceed for 5 additional minutes.)

Mr. BOGGS. Mr. Chairman, if we adopt this amendment that the gentleman proposes—and he is a very sincere Member, I am very fond of him, and we have served together for many years—I ask you sincerely, with all of the earnestness that I can command, do you really help this bill by adopting this amendment?

Is there any higher educational institution in this country that has any busing problems? I do not know of one. There may be. This is a higher education bill. But what about in secondary and elementary education, where we have all these problems, and have all the emotionalism—and I know about it, I have lived through it for years, I do not have to tell you about it, I know. It has been part of my political life for 20 years. Does this help any school kid anywhere in the United States?

The court hands down the decree, and says you have to bus. If you write this provision into this bill it does not say, well, you do not bus, it simply says that you impose more, you impose more on the local taxpayers, most of whom, particularly in the areas where this problem is most acute, in the big cities, have already exhausted their remedies and their revenues. You say to them, oh, yes, we will give you some money to help in desegregation, but we are not going to let you use one penny to go out and buy buses, or pay school bus drivers, or all the other incidentals that result from a court decree.

You are not stopping the buses, you are not doing a thing about the busing, it is still going on, you are simply requiring that the local people will pay the cost and bear the burden.

It seems to me that every iota of logic commands us, if we are to legislate in this area, if we are to let the Federal Government assume, as it must, its proportionate share of the cost of educating our people, then the idea of trying by these indirect methods to overcome the decisions of the U.S. Supreme Court have no place in this type of legislation.

Whether I agree or disagree, I would say that the honest approach is in the approach of the gentleman from Georgia and the gentleman from Oklahoma who have put here on the desk petitions calling for constitutional amendments in this area. Do not take this legislation that this committee has struggled so long and so hard to report, and to perfect, and to pass, and use it as a vehicle that really will not accomplish what you seek to accomplish, but which would tie every school board and every school district in the United States into a hopeless situation on the expenditure of these funds that we make available.

That is my plea to you.

I hope the amendment of the gentleman from Michigan will be voted down, and I hope the other amendments that seek to bring about this result which cannot come to pass will also be voted down.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, we have a very simple amendment before us at the present time. The amendment, in effect, says that no order on the part of any U.S. district court which requires the transfer or transportation of any student or students shall go into effect until such court order has been appealed to the highest court or until the time for such appeal has expired.

If this amendment is approved—if it is enacted into law, it simply means that no district court order forcing busing for the purpose of obtaining racial balance shall go into effect until the U.S. Supreme Court has made the final determination.

I think that is fair. It is a bipartisan amendment. I am told that five Members on the Democratic side of the aisle from the State of Michigan, Mr. WILLIAM D. FORD, Mrs. GRIFFITHS, Mr. O'HARA, Mr. NEDZI, and Mr. DINGELL have cosponsored this amendment in legislative form and they have been joined by the gentleman from Michigan (Mr. BROOMFIELD) and the gentleman from Michigan (Mr. MCDONALD).

This is legislation that would, in effect, put a stop order on Federal court action until there has been a final appeal to the U.S. Supreme Court. I think it is fair. I think it makes sense. I applaud the bipartisan authorship of this legislation and I hope the committee approves it.

Let me talk a minute, if I might, about the other legislation that my friend, the gentleman from Louisiana mentioned.

I think we have to differentiate between this amendment and the emergency school aid amendment which will be offered by the gentleman from Illinois (Mr. PUCINSKI).

The emergency school aid bill is aimed at helping those school districts primarily that are under court order to bus for the attainment of racial balance. The purpose of the legislation is to provide Federal funds to assist those school districts that through no fault of their own have to take action in conformity with a court order.

It is equity and justice on the part of the Federal Government to provide that financial assistance. I am interested in the best education that we can get at the elementary and secondary level. The best way in this emergency to obtain that best education is to provide Federal financial assistance rather than to force busing. Forced busing to attain racial balance is not the best way to get good education.

Let me illustrate. In my hometown of Grand Rapids, Mich., we have, for example, a pupil-teacher ratio of 25 students to one teacher. In my judgment, it would be far wiser to spend the money that we might spend for busing, to reduce the pupil-teacher ratio. It should be 8 to 1 or 7 to 1. It is a far wiser expenditure to use that money for the lowering of the pupil-teacher ratio. The emergency school aid bill will accomplish that objective; $1.5 billion will accomplish that.

I happen to think it is far wiser timewise for kids to be in their neighborhood schools rather than to spend a lot of time traveling from their home to a school which may be 3, 4, 5 or 10 miles away.

For that reason I am strongly in sup-

port of the emergency school aid bill. It is a case of equity. It is a case of helping to improve education. It is a better way to do it than by the method used or proposed under the current circumstances.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. RANGEL. I thank the gentleman for yielding.

I am new here and I recognize that we have three separate branches of Government. I know that busing is a very emotional and perhaps a political question. But does not your support of this amendment mean that the Members of the U.S. Congress are restraining the members of the judiciary from enforcing what they believe to be a constitutional mandate?

Mr. GERALD R. FORD. Under the Constitution, and I am sure the lawyers on the Committee on the Judiciary would agree, the Congress has the authority to prescribe rules and regulations as to appeals and the effect of an appeal during the process of appeal. That is all this legislation seeks to do.

Mr. RANGEL. In your history as a Congressman has it ever occurred before when Members politically did not like a court decision that we legislated new ones?

Mr. GERALD R. FORD. I am sure that in the history of the Congress that has been done. I cannot recall a specific case since I have been here, but it is certainly permissible under the constitutional authority allocated to the Congress of the United States.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

Mr. GERALD R. FORD. Mr. Chairman, I ask unanimous consent that I may proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. CAREY of New York. Mr. Chairman, reserving the right to object, I wonder if we could actually hear the wording of the amendment.

Mr. GERALD R. FORD. I think the better way to do that is to suggest that the gentleman come over and get copies of the amendment, but if you would like, I will read the amendment.

Mr. CAREY of New York. I would be glad to hear it now or read it later.

The CHAIRMAN pro tempore. Is there objection to the request that the gentleman from Michigan be given 2 additional minutes?

Mr. THOMPSON of Georgia. Mr. Chairman, if the gentleman from Michigan is going to read the amendment, I ask unanimous consent that he be given 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. GERALD R. FORD. The amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) is as follows:

On page 277 after line 20, insert:

"SEC. 2001. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in conection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired."

And renumber the remaining sections of title XX accordingly.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I know it is late. I know many of us would like to get through the amendment to title XXI, so we can dispose of the question up or down.

As I understand the amendment before the House, it is nothing more than a reaffirmation of existing procedures in the courts. A school district is confronted with a court order, and there is a stay of execution while it perfects its appeal. All this amendment does is merely to reaffirm as a statement of the Congress that local school districts faced with a court order do not have to implement the court order until all appeals have been perfected and completed and disposed of—all.

If a local school district chooses not to perfect an appeal, then at least until the time of such an appeal has run, I do not see how or why we should have a great deal of difficulty with that question. I do not see any objection to the amendment. I do not see much difference whether one is for it or against it. It is a reaffirmation, and if Members of the Congress really want to participate in that kind of reaffirmation, it seems to me they should be given that opportunity.

Mr. GERALD R. FORD. I would summarize what I have said in this way: The amendment merely holds the status quo in a school district until a final judgment has been made by the U.S. Supreme Court. I think that is fairness. That is equity. We ought to approve it.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from North Carolina.

Mr. JONAS. The record will show that U.S. district courts have refused to stay orders requiring busing pending appeal.

Mr. GERALD R. FORD. Mr. Chairman, in conclusion, this is a bipartisan amendment. It is in the form of a bill sponsored by five Members of the Democratic Party and two on the part of the Republican Party. I think the Committee ought to approve it.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment I offered a few moments ago, should have been in order. I know it will be in order when we come to the last or 21st section.

This amendment is as follows:

On page 282 after line 4 insert the following:

"SCHOOL BUSING

"SEC. 2004. (a) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

"(b) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition to obtaining Federal funds otherwise available to any State, school district or school."

, and renumber the succeeding section accordingly.

With the exception of changes to make it fit a legislative bill, this is exactly the same provisions as the Whitten amendments which have been adopted 2 successive years, sections 309 and 310 of Public Law 92–48 making appropriations for the Department of Education.

These prohibitions against the use of funds have simply not been enforced by the executive branch of Government.

On September 29, I wrote President Nixon as follows: I quote:

SEPTEMBER 29, 1971.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: You will recall that last year we got the Congress to adopt the so-called Whitten Amendments, which became a part of Public Law 91–380, making Appropriations for the Department of Health, Education and Welfare. This year, through the Office of Management and Budget, these amendments were recommended for retention and the Congress retained them as Sections 309 and 310 of Public Law 92–48. I quote the provisions here:

Sec. 309. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Sec. 310. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

I have watched this matter closely and I am convinced that the Department of Health, Education and Welfare is violating these provisions generally, and in many cases that Federal District Judges are directing their violation by calling on the Department to

prepare and submit plans which of necessity require forced busing.

In other cases it is reported that schools and school districts are being intimidated to the point of offering to go contrary to the intent of Congress as expressed in these provisions in connection with obtaining funds otherwise available to them.

I expect to ask the Congress, through the appropriate committees, to investigate this overall situation and hope and trust that you will use your good office toward this end.

I respectfully submit that it is imperative that we act *now* to save not only the power of the Congress which has passed these laws, but that we do it in order to save public education and protect the well-being of hundreds of thousands of youngsters and families of all races.

As we know from every section of the country, hundreds of millions of dollars are being required to be spent to move children around like checkers on a checkerboard, in school districts that are already fully integrated as that term is defined in the Civil Rights Act of 1964.

This is being done in areas where the money is badly needed for teachers' salaries and for additional training needed by many teachers.

We must act now. It will be pointed out that this action will not answer all the problems; and it won't; but it will be a solid start toward common sense.

We have seen law enforcement broken down, all traced back to the Federal Courts; we have seen the people's branch, the Congress, seriously weakened by redistricting demands by the Courts, in which the Congress has acquiesced. Now if we lose out here and let public education be destroyed, Russian communism will have won without doing anything except use the American people themselves.

Hoping that you may see fit to enlist your powerful position and good office in taking such action as may assist in saving the day for the American people, and thanking you, I am

Most cordially,

JAMIE L. WHITTEN,
Member of Congress.

I received an acknowledgement and promise of consideration, but to date no action.

Mr. Chairman, I understand that members of the committee will offer amendments similar to the one I offered. Should such amendments not be adopted I expect to offer my amendment as the last section of this bill. I believe the Congress is now ready to add legislative prohibitions to the restriction on use of funds which we adopted earlier this year.

We must act and we must act now.

My friend, the gentleman from Louisiana, would have this Congress believe that this Congress must have the courts tell us what to do with moneys that are appropriated by this Congress or authorized by this Congress. That is what has gotten the country into the fix it is in. Whatever Members may think about forcing students to go to schools against the wishes of their parents, when they are already going to integrated schools, whatever Members think about that, they must realize it is up to us to decide what we do with appropriations and with authorizations.

I suggest that Members look across this country and they will see that the quality of education is breaking down. There were five or six stories in yesterday's paper about school districts scattered throughout the United States refusing to vote bond issues to carry on the present low quality education in public schools. That is what is happening.

Mr. Chairman, people, whether white, Negro or of some other race, are opposed, whether by court order or otherwise, to having to send their children away from the school near home to some other place—when he or she is already attending an integrated school, at the whim of a Federal official or of a Federal judge.

I will say to my friend, the gentleman from Louisiana, the majority whip, that he is completely wrong when he takes the view that the Congress can pass on to the Federal courts its responsibility to say what this Congress shall authorize in a statute, or what the money we appropriate can be used for. That is our responsibility and ours only.

Our law enforcement has broken down the one man-one vote usurpation of power by the Federal courts, in which Congress has acquiesced has weakened this body. Now if we do not do something to save public education we will see a complete breakdown in Government.

I shall vote for the Broomfield amendment. It does not do much but it is a start. Then I shall vote for the Ashbrook and Green amendments. If they are not adopted I shall reoffer my amendment at the proper place in the bill.

The people are ready for action.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think with all due respect to my friend, the majority leader, that he did not quite put the Broomfield amendment in the proper perspective. It does not stop busing. It does not prohibit busing. It does not tell the courts they cannot make orders. It simply says that we cannot force the busing until the appeals procedure has been had.

I am going to say something that might be controversial at first sight, but just let me finish before Members get upset. There is going to be a trial presumably someday in California for Angela Davis. I am not saying, as the President did once: She is guilty. I do not know whether she is or not. But if she is found guilty, I will be the first one to protest if there is an effort to execute her before she has a chance to appeal. Many people will join me on that who say that we ought to implement these things. But it is just as similar as anything we can think of. If the school district is ordered to bus, and they do not think the Court is right, they have the same right to appeal as anybody else does.

I will tell Members something. There has never been a segregated school in my district. Everybody who goes to school in my district—goes to an integrated school, but there is no single issue that has the unpopularity that we have seen in the consolidating of school districts and hauling kids from before daylight until after dark, and it is not done for integration at all. Ohio has, somehow or other, achieved the record of voting down more school levies in the last 3 or 4 years than any State in the Union, because people are fed up with some entity in the State capitol or some court or somebody else telling them what to do with their own money and their own schools and their own children.

Now, if there is any element of fairness at all, it is in the American procedure that everybody who is convicted in the courts has a right to exhaust his appeals, and that is all the Broomfield amendment does, and I am going to support it.

Mr. LENNON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I hope none of you have to have the experience that I have had since August 16, Hear me, please.
none of you have to have the experience that I have had since August 16. Hear me, please.

On August 18 of this year in my home county a decision was entered by the district court regarding the desegregation and, more particularly, the busing in schools in order to obtain a racial balance based on the ratio of the population of that county. The school board immediately called upon me—that was during the August recess—to go to the news media, television, and otherwise, and explain to the public why it was not in the public financial interest to appeal the decision of the district court. The decision of the district court was for immediate implementation of its order.

I refused to do that, to make that appearance on the TV media. We have two television stations in my hometown. I refused to issue a press release.

Finally, at long last, I helped convince the school board, through its attorney, that for psychological purposes, if for perhaps no other reason, they ought to appeal the case. There was a question of finances involved.

A week ago yesterday I was called on by two school boards to do the same thing, to appear on television and to have a press conference and to urge the school boards not to appeal the case. I again refused to do the same thing. But I did convince the school boards that for psychological reasons, the emotional impact on the parents related to busing, that they ought to go ahead with an appeal, even though that would not stay the order of the district court.

Now, ladies and gentlemen, the time is fast approaching for each one of you. I do not say it hopefully. I do not say it as if I wanted to be provincial or as if I wanted to be from the South. I am a Yankee; I am from North Carolina; that was the way I was described in Louisiana when I was visiting in New Orleans less than a couple of years ago.

You are going to be faced with this same situation. It is just unreasonable for me to believe that we cannot accept this amendment. It simply stays the action of the District Court until there is a final decision.

One of the things which has so distressed me was the lack of understanding of our people as between a court order and an HEW order or the threat of going into court through HEW. People do not understand the difference between de facto and de jure segregation. They do not understand it. Ninety-five percent do not. We have the responsibility of educating those people throughout this land.

The South is no longer the target. It

is coming to Michigan, or the gentleman from Michigan would not be in the well to offer this amendment. It is coming to all the States of our Nation. Perhaps the time has come.

I say let us accept this amendment. It is reasonable. It is rational. It is in good faith. Ultimately every one of you is going to be called upon by his respective board of education in his political subdivision to do what? To stand up and speak out in opposition to an appeal. But the parents, the guardians of children, say, "For God's sake, can there not be some other court that can finally make a decision?"

Let us accept this amendment. It is reasonable, rational, and there is nothing emotional about it.

Thank you very much.

Mr. MIZELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the House, with the lateness of the hour, I certainly had no intention of speaking on this issue, but I must share with you things that have occurred in my district in North Carolina.

I have been saying for over a year now that busing of students and cross-busing of students simply for the purpose of achieving racial balance is no longer just a regional issue but, rather, is a national issue. I think the action that we see here this evening just emphasizes what we have been saying for a long time.

What does busing mean? The distinguished majority leader said that it meant many things. Well, let me tell you what it means to the people of the Fifth District of North Carolina and especially the people of Winston-Salem, N.C. Busing there means that little children from within the city of Winston-Salem, are taken and bused 20 miles out into the country to attend school there when they could have walked across the street and attended school. It means that little children are taken from 20 miles out in the county and bused into the city of Winston-Salem to attend school there when again they could have walked across the street to attend their neighborhood schools. This is what busing means to the people of the 5th District of North Carolina, and this is what it is going to mean in more and more areas of this Nation if this body does not take action once and for all to eliminate such a ridiculous exercise under the name of education.

This is not a racial issue in my area of the country, and I do not think it is a racial issue in the other areas of the country. We support quality education; we support equal facilities; we support getting the best qualified teachers that are available to teach in the schools. We believe in giving equal educational opportunity for all of the children. So this is not a racial issue.

I certainly want to commend the gentleman from Michigan for a nonpartisan effort here this evening in an attempt to bring at least some hope to the people in Michigan, because this is not a partisan issue. It is neither Democrat nor Republican issue but, rather, the issue is the preservation of our public schools. This is what really counts.

I say to the gentleman from Michigan and to the Members of this House, while I am going to support this amendment, I really believe that it will be an exercise in futility in attempting to accomplish what you hope to achieve here this evening.

I think I can best emphasize this as it relates to the court order in Winston-Salem, N.C., which was handed down by a Federal district court judge. This decision was appealed. The appeal was denied. Then at the very time that the Supreme Court was refusing to hear the case, Justice Burger was leveling criticism at the lower Federal judges because they could not interpret what the Supreme Court had said. I say to you, many of us cannot interpret what they said.

But, then, another opportunity was presented to the Court, and just this past week the Supreme Court once again refused to hear the case from Winston-Salem, N.C. In my opinion this was really an unforgiveable action by the Court, because while they were criticizing our Federal judges for not being able to interpret what the Court had said, but when they were given the opportunity to clear up the confusion, they refused to hear the case.

So, Mr. Chairman, I say to these gentlemen from Michigan, while I think we should adopt this amendment—I wish it had been adopted a long time before now for the children in my area of the country—I say it is going to be an act of futility, because whatever decision the district judge makes in Detroit or Pontiac, Mich., or wherever it might be, it is going to be a decision with which you are going to have to live. So, I say to you it is time that this body acted and acted in a responsible manner and enacted a constitutional amendment that will clear up this question once and for all.

Mrs. GREEN of Oregon. Mr. Chairman, I am rising to see if we can reach an agreement on time on this amendment.

It seems to me, Mr. Chairman, that everyone has made up his or her mind as to how he or she is going to vote on this and the amendments that will be in order from here on out.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon (Mrs. GREEN).

Mr. DELLUMS. Mr. Chairman, I object.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 30 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. PUCINSKI. Mr. Chairman, reserving the right to object, there is another very important amendment coming to title XX which I understand the gentleman from Ohio has and which I am sure will be considered and debated.

Then, there is a whole title XXI to be offered.

Mr. CAREY of New York. Mr. Chairman, regular order.

Mr. PUCINSKI. Regular order is what I have. I have a right to reserve an objection.

Mr. Chairman, I would hope that we could, instead, go along with the original request made by the gentlewoman from Oregon so that we can move on with the other amendments that are pending. It is going to be a long evening otherwise.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentlewoman from Oregon (Mrs. GREEN) that all debate on this amendment end in 30 minutes?

Mr. QUIE. Mr. Chairman, reserving the right to object, my own reason for doing so is to point out that so far the Members who support the amendment have been talking on it, while I imagine there are a number of other people who are opposed to the amendment who should have an opportunity to express themselves.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request that all debate on this amendment close in 30 minutes?

Mr. DELLUMS. Mr. Chairman, reserving the right to object, I noticed since the point when the gentlewoman from Oregon raised the issue that more and more people have arisen to the floor, meaning that our time is divided smaller and smaller. I would like a ruling from the Chair on this.

The CHAIRMAN pro tempore. The Committee of the Whole has not accepted as yet the unanimous-consent request.

The Chair will put the request again.

Is there objection to the unanimous-consent request of the gentlewoman from Oregon (Mrs. GREEN) that all debate on this amendment end in 30 minutes?

There was no objection.

(By unanimous consent, Mr. BRADEMAS yielded his time to Mr. BADILLO.)

The CHAIRMAN pro tempore. The Chair will announce that each of the Members who were standing when the unanimous-consent request was agreed to will be recognized for 1¼ minutes.

The CHAIRMAN pro tempore. The Chairman recognizes the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Chairman, everyone of us here this evening at this late hour favors the best education for the children of this Nation whether they are black or white. The argument has been made that forced busing is the only way to provide good education for all children. It will be said that black children have been bused past good schools in the South to attend segregated schools of poor quality education. It will be asked: "Where were you while this was being done?"

I can say we never have done this in Indiana. We have never bused black or white children to get them to a school for any racial reason. But, today we are being threatened that we must start doing this. Why now should we bus our children from one area to another area, having those buses pass on the road and requiring hours of young children's time spent on a bus?

Not one argument tonight has stated that busing will assure better education for any child. This is what we are talking about; providing the best education that

our taxpayers can provide for the children of our Nation. All agree that education needs more money.

How can we justify spending those hard-earned dollars for busing that are needed sc badly for teachers, books, desks, and buildings?

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I support the Broomfield amendment. It would prevent busing orders by Federal district judges from being carried out until all appeals from such orders have been acted upon. This is fair. It is reasonable. It should be adopted.

Too often we have witnessed district judges assume inexcusable authority to project their own pet whims and preferences upon people who are helpless to resist, except through the process of appeal. Some such actions go far beyond what Supreme Court decisions require in the area of school busing.

Mr. Chairman, the American people are sick and tired of being kicked around and deprived of basic freedoms. Although the Congress cannot by statutory action overcome a Supreme Court decree, no matter how offensive and improper it may be, this Congress does control appropriations. It does function in the area of judicial procedure. The people have a right to expect this Congress to take advantage of every opportunity to delay, restrain, defeat, modify, or otherwise oppose compulsory busing of school children for the sole purpose of achieving a racial balance. Here is an cpportunity to at least do something in that respect.

The Gallup poll reveals that 76 percent of the American people are opposed to busing. In Texas 78 percent of the people there oppose it. A massive demand is manifesting itself, from all corners of this Nation, demanding that this Congress do something to help alleviate this monstrous busing policy.

The real power lies in a constitutional amendment. I have signed discharge petitions in an effort to force the issue to a vote. I urge all of my colleagues to do likewise. Let us respond to the voice of the people, and do something about it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I favor this amendment. The reason why I was absent from the floor momentarily just now, was due to the fact that I was looking up the judicial authority on this particular section, because this is an unusual thing to limit the powers of the courts. I have not made an exhaustive investigation on it, but I have found decisions indicating that this is a constitutional and legal provision, and that this can be done under our Constitution, under the power of the Congress to establish inferior courts. I have found no decisions to the contrary.

I was first struck with the fact that I had not previously any memory of the Congress acting to restrict the jurisdiction of the lower courts in a similar manner but I have just come from the House library where I have been reading decisions on the subject.

One provision of the Constitution applicable here is section 8, clause 9 of article I, which reads:

> The Congress shall have power . . . to constitute tribunals inferior to the Supreme Court.

A complementary provision is article III, section I, which reads in pertinent part as follows:

> The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Under these provisions the courts have held that Congress has the power to enact laws such as the pending amendment. Pertinent decisions are to be found in the U.S. Code Annotated. Among them, for instance, is *Johnson* v. *San Diego Waiters*, 190 Fed. Supp. 444, which held:

> Federal District Courts are creatures of statutes enacted pursuant to this article and have no jurisdiction other than that conferred by acts of Congress.

Also in *Henderson* v. *Kimmel*, 47 Fed. Supp. 635.

> Congress in its unfettered discretion may withhold or take away their jurisdiction.

Since I may or may not have an opportunity to speak when the busing prohibition amendments are before us in a broader manner, I would like to state my strong support for the neighborhood school concept; and for the concept that when court orders have required busing to achieve racial ratios, then the legislation before us should allow and provide Federal funds to carry the burden of this to insure that educational quality shall not suffer locally because of the court imposed busing.

Once I thought that prohibiting Federal funds for busing would protect us from imposed busing for racial ratios. I am convinced now that this is not so. The superintendent and other school authorities of my congressional district are of the same opinion. They have asked my support for Federal funds when the courts have imposed such busing.

In view of these conclusions I strongly support Federal funds from this bill to relieve the burden on the local schools when the courts have imposed such busing. Otherwise education will suffer seriously and this without any relief from court imposed busing.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, massive busing as mandated by certain district court orders is neither prescribed by the Constitution nor by the civil rights bill. To the contrary, massive busing as it has been imposed by court order in many areas of the country—particularly when it is specifically to achieve a certain racial mix.

The upheaval of education at the primary and secondary school levels caused by massive busing has been tragically disruptive to students and families across the country.

The costly and disruptive cross-city and cross-country busing mandates may satisfy the social planners, but it will do nothing for the quality of education nor for the millions of youngsters who are literally caught in the shuffle.

I have opposed in the past and do now oppose a dual school system—but I fear that a program of forced, massive busing will eventually destroy the public school system in this country as we know it.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, some of you may have read the newspapers this week indicating that the issue of busing was reached in the Supreme Court of this land, when the Court refused in the Pontiac case to disturb lower court orders ordering desegregation which was being accomplished by busing.

It seems to me that the issue we are discussing here tonight is the question of how we are going to provide the best kind of Federal aid for higher education. The issue that is being raised by the amendment, which I find is very ungermane, but apparently parliamentarily it has been ruled differently—the issue that is being discussed here tonight is how we can exercise congressional jurisdiction over the establishment of inferior courts to thwart that objective. It is far from clear constitutionally that our power over regulating inferior courts entitles us to interfere with or prevent the orderly process of justice, or to substitute our judgment as to the time when a Federal court order becomes finally operative. Most of the busing cases come up under the State jurisdiction in any case and are not within the jurisdiction of this body, even if we have the power to interfere with court orders.

I think the question that is raised by this amendment is merely a way in which people who oppose integration and who oppose the orderly implementation of the desegregation order of the Supreme Court in 1954 are using but one more effort to try to confuse the issues and to try to prevent this body from clearly providing aid for higher education without exacting the price of a vote against busing.

Therefore, Mr. Chairman, I oppose this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I am opposed to the Broomfield amendment and urge my colleagues to vote against it.

This amendment substantially changes the power of the Federal district courts to grant relief to successful plaintiffs against unconstitutional racial discrimination. However, as I listen to the impassioned plea of the minority leader in support of the amendment, I recognize that this is an essential part of the Nixon administration's plan to deny America a desperately needed single society. There is little doubt that we cannot move much further in eliminating the scourge of racial discrimination in

America until we have eliminated it in our public schools. President Nixon's predecessor urged the elimination of racial discrimination because it is immoral. Tragically, President Nixon does not share that view of morality.

He has consistently told the American people that our Government will do only that which is required by the courts. Those who suffer racial discrimination will be denied executive action and moral leadership so desperately needed from their President.

The second essential part of this plan is evidenced in his Supreme Court nominations, his effort to stack the U.S. Supreme Court in favor of racial discrimination. He has made it clear in most of his nominations and considerations for nominations that among other qualifications he seeks is opposition to civil rights. Now we come to the third essential part of the plan to deny black America their constitutional rights. Stop the power of the courts to enforce those rights for 1 or 3 years and he may succeed in his Court packing plan.

All of this makes it imperative that we defeat the Broomfield amendment. It is also the reason that the U.S. Senate must prohibit the President from using the U.S. Supreme Court to frustrate rather than protect the rights of all Americans to a single society and to equal justice under law.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, I certainly commend the gentleman from Michigan (Mr. BROOMFIELD) for offering this amendment. Of course, for many in the South, it comes a few years too late. For others in cities such as Savannah, Augusta, and Atlanta, it will be a most equitable and helpful measure. I am delighted to support it. I would like to point out, however, that this is really not a permanent solution to the problem that we have upon us.

A permanent solution rests with a constitutional amendment.

I would like to take this opportunity to urge each and every Member of this body to sign the discharge petition—discharge petition No. 8, if you desire to limit the busing of pupils and quotas based upon race in employment; or discharge petition No. 9, if you desire only to limit pupil assignment based upon race, creed, or color.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DELLUMS).

(By unanimous consent, the time allotted to Mr. HAWKINS was granted to Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I have tried to listen carefully to those who are the proponents of this amendment. They have stated on this floor that this amendment is not a probusing amendment nor an antibusing amendment, but it merely serves to stay court action until such time as those districts that have been mandated to desegregate may seek a reversal in the court of last resort. Therein lies the travesty of this amendment. Because if it were an amendment that were either pro or con as regards this issue that has evoked such great hysteria, we could address ourselves to the question by allowing this body to work its will. But the fact is that this amendment only delays the inevitable. It means that this Congress is delaying the time when we face the question as to whether or not we have a democracy for all the people, and whether or not we will abide by the law of the land.

I understand many of my colleagues on the Republican side of the aisle, because you never purported to be a party of the people, and I understand many of my colleagues from the South, because I know the history of bigotry and racism in the South. To the rest of my colleagues, the liberals in this Congress on the Democratic side, I ask—How can any of you support this kind of amendment? All it is doing is delaying the time when you have to come to grips with the issue of busing. Perhaps we all know the answer to that question. It gives some of you 1 year or 18 months or 2 years to go out to your constituents and get reelected again under the banner of liberality to one part of your constituency, and under the banner of antibusing to another part of constituency. It is tragic that some of the liberals are not willing to stand up here on the floor of the House and address yourselves to this issue. That is the travesty of this amendment.

If you had any courage, you would stand up and face this issue, and vote this amendment down. All it does is give you a little more time to straddle the fence until such time as you can get reelected to come back to Congress.

I would suggest that we be as concerned and fervent about saving the children in this country as many in this Congress are about saving their jobs. I urge you to vote this amendment down, and to those "liberals" of the Democratic Party, I urge that all of you join in defeating this amendment. To do so would reflect personal courage, political integrity, and forthright leadership so desperately needed as regards this highly emotional issue.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

(By unanimous consent, Mr. PUCINSKI yielded his time to Mrs. CHISHOLM.)

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, this will come as a shock to some of my colleagues. I am opposing this amendment. I will tell you why. I look at it from a rather cold standpoint. We are busing all over the First District of Alabama as far as you can imagine. Buses are everywhere. Across the towns. Across the counties. Jumping over school zones and it has come to the point where a lot of people say to me, "How in the world are we ever going to stop this madness?" I say, "It will stop the day it starts taking place across the country, in the North, in the East, in the West, and yes, even in Michigan."

And so busing is ordered in Michigan and the first thing the members from Michigan do is come in with this amendment and ask us to delay it for them. But my friends, we are not going to stop the busing as long as we let them off the hook the minute it hits them. Let it hurt them and we will get their votes as we try to stop busing once and for all. Give them this relief and they will not be there when we need them.

I say let's hold their feet to the fire until we stop this busing foolishness.

It is for this reason, Mr. Chairman, that I am going to vote against the Michigan amendment. Finally, Mr. Chairman, it is interesting to see them squirm now. Where were they when we have needed them so badly over the years we have been trying to stop busing?

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Chairman, in the first place, I should like to commend the words of the distinguished majority leader who spoke earlier in this debate, because I think he made it very clear that this amendment is extraneous to the legislation pending before us and should be defeated.

But more importantly than that, the proposed action is virtually unprecedented. It is unprecedented for Congress to single out a specific area of judicial jurisdiction and legislate in that area alone. To single out one area—in this case desegregation orders which are issued by Federal district courts in order to obtain compliance with the law of the land as enunciated by the Supreme Court—and not touch any other area of litigation, be it torts, contracts, criminal law or other, is discriminatory, arbitrary, and capricious. It is an attempt to change Federal procedural law—not for all cases, but only in desegregation cases. The purpose is to frustrate the implementation of the 1954 Supreme Court decision, Brown against Board of Education.

Federal procedural law now provides well-established remedies for review of court decisions and for staying their execution. Whether or not a particular court order should be stayed is a matter for the judiciary to decide.

What precedent exists for a legislative injunction of a judicial order? This amendment constitutes a violation of the doctrine of separation of powers and the sacrifice of constitutional principles upon the altar of expediency. Instead of fueling the fires of bigotry, let the House look beyond the emotional uproar over busing and uphold the Federal judicial system.

The amendment should be defeated.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I support the gentleman from Michigan. I would say this about it. All of us who have had experience with the courts know that much would be gained in every case that has ever been determined if there were more time, more appeals and more consideration given to every

case. We have reached a grave situation in America, and those of you who are familiar with busing know it.

We have the courts that have now moved into the legislative field, and the way the Constitution was written, the Founding Fathers determined that Congress would write the laws of this country. If more time is given, as it would be under this amendment, the courts would show more logic and, in turn, I hope the appeal courts would also, and I know the new Supreme Court in its judgment could better review the facts in each school district.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from New York (Mrs. CHISHOLM).

(By unanimous consent, Mrs. GREEN of Oregon yielded her time to Mrs. CHISHOLM).

Mrs. CHISHOLM. Ladies and gentlemen of this Chamber, the time has come that we must face a real reckoning of many things that many of us have been trying to avoid through parliamentary maneuvers and parliamentary tricks. Liberals show one face here in Washington, D.C., and something else in their representative home districts.

Let me say this: My heart bleeds this evening for all of those who are addressing themselves to the fact that we must not and cannot have young children being carted from one district to another in order to be able to give them the kind of education that is necessary to cope with a highly automated and technological society.

Where have you been for these many years? The black and Spanish-speaking children in the Southern and Western parts of the United States have been bused right past the white schools in your communities in order to go to the dilapidated buildings reserved for them to acquire some kind of education. Where have your voices been for those children through all those years?

Now it is the same old pattern, and because it now affects a certain segment that have been the beneficiaries of the status quo in America, it takes on a highly different picture now.

The same thing is happening with respect to the drug problem in this country. Where have you been all these years when drug addiction has seized certain groups in this Nation? Now everybody is crying out about what drugs are doing to the children, the youth of this country. Everybody is crying out about what cross-busing is doing to the children.

You know, let me bring it right down front to you. The fact of the matter is racism is so inherent in the bloodstream of this country that you cannot see beyond a particular limit. You are only concerned when whites are affected. If you were indeed concerned about the busing of young children for the sake of getting educational equality, your voices would have been raised years ago in terms of the fact that black and Chicano, Spanish-speaking children were getting an inferior education by being bused right past the white schools in their neighborhoods in which they lived to the dilapidated schools in the outlying districts.

Come out from behind your mask and tell it like it really is. Are we going to believe in the United States of America that we are going to try to bring about a society where every man and woman and child will be judged not on the basis of his race, but on the basis of his capabilities and his potentialities for realizing the dream we all speak so glibly about during political times?

I say to the Members: Where have you been? Where were you when the black children were being bused right past the white schools in the community? Nobody has addressed himself this evening yet to that particular issue, but it is very understandable why the Members are not addressing themselves to this issue.

There is a chance this evening to come out from behind your mask. Forget they are white children. Forget they are black children. Forget they are Spanish-speaking children. Just remember one thing: They are America's children. They are the children who are going to carry this country on when we pass off this scene, and the hope of this Nation really lies with these children. So for God's sake, let us be done with this amendment and deal with it objectively. Listen to the children of this Nation.

We would not be confronted with the problem we are confronted with tonight—at what time is it?—it is 10 after 9, unless it is because we have practiced sham and hypocrisy for so long, and it has finally caught up with us.

Mr. Chairman, I hope the Members vote down this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I share the concern over the children, and the issue today is one of creating a stable environment in the classroom so that the teachers can teach, and the children can learn—be those children black or white.

There has been such emotionalism on the issue of school busing that we have failed to grasp the purpose for our schools—and that is to create a stable environment in which the children can learn. The impact of the Broomfield amendment, whether we are for or against school busing, will do that. It will provide more stability to school systems, so that we will not have another generation of children growing up in an unstable atmosphere of school busing.

Mr. Chairman, the Members of this body may soon be called upon to cast their vote on the school busing question. With that point in mind, I am taking this opportunity to present this statement as we attempt to resolve this matter.

Few issues in the Nation give rise to so much emotionalism and dogmatism as the busing of schoolchildren to secure equal educational oportunity for all students. Extensive litigation is before almost every court in the Nation; numerous different resolutions, bills, and constitutional amendments are before both Houses of Congress; apparent differences in statements by administration officials give rise to confusion; the letter-to-the-editor columns of the papers are full of acrimonious charges and countercharges.

Far too little of this debate has concerned itself with the most important part of the slogan "equal educational opportunity"—education. The purpose of an educational system is to create an environment in which learning can take place. While there is clearly a place in the educational system for attempts to bring about social change and an upgrading of society, the primary purpose is, and must continue to be, to educate.

Schools, therefore, should concentrate on providing a stable atmosphere in which the teacher can teach and the student can learn. The student himself must be the center of our concern. The quality of programs and academic excellence must be our major interest. The student must be presented with the academic and practical skills that will allow him to become a useful and contributing member of society.

Schools do have an impact for social change, but 30 hours a week spent in a schoolroom cannot solve the problems caused by 130 hours in deprivation. If the school system is to have any impact at all on removing a student from deprivation it must be because it provides him with the knowledge and the ability to break out of the cycle of poverty and ignorance. Only if the schools can teach him to read and write, calculate, and make use of his skills can he find a job and take his place in a world consisting of something other than welfare checks, indolence, dilapidated housing, and hunger. If the schools do not provide the education then all the social contact in the world cannot improve the student's lot. It has been shown time and again that students do not necessarily achieve more in an integrated setting. It is the equality of the courses offered and the staff available, not just the racial mix of the students and teachers involved, which determines achievement. In my view, spending money on special programs for the deprived is far more important than spending it on pupil transportation.

"Community spirit" has been an important part of our national heritage—pride in one's community, working together, cooperating to secure common goals, helping out a neighbor in times of need. Indeed some of the most important "social" legislation of the last decade has attempted through the community action program to reinvigorate that sense of community. Almost invariably, the most important institution of a community is its school.

Children need a sense of community—a stability—if they are to develop most effectively. Children need to feel secure in their relationships with their parents, with their friends, with the parents of their friends, with their teachers and classmates. That security and stability can best come, in my opinion, through neighborhood schools, as near as possible to his home—although it obviously cannot always be within walking distance.

For these reasons I am a strong supporter of the neighborhood school concept. This general statement of views, however, does not deal with a number of specifics which must be acknowledged in the "busing" debate.

The first, and most obvious, is the removal of "dual" school systems. Since

holding office I have consistently supported the goal of unitary schools offering equal opportunity to all students. Indeed, every branch of the Government has affirmed again and again—through legislation, court rulings, and administration statements over the past two decades—that there cannot be separate school systems established on the basis of race. Nor can there be any question of the responsibility of school boards to take affirmative action to end the separate system.

There is serious confusion in the rulings of the courts on this entire question. It is important to point out that the Supreme Court did not hold that there must be racial balance in a school system. Indeed, it held that there are circumstances where an all black, or all white school is perfectly permissible. The Chief Justice recently expressed concern that the lower courts are widely misinterpreting the Supreme Court decisions in this area. The Court held that busing is one of the affirmative steps a school system can take to correct its purposeful discrimination of the past. It did not hold that this was the only step, or even the most desirable step.

It is imperative, in my view, that the Supreme Court immediately clarify its rulings. At the present time, different rules are being applied by different lower courts throughout the Nation—creating confusion and conflict.

Second, additional confusion and conflict has been created by administrative vascillation. It makes no sense for the administration to state that they will do everything possible to uphold the law and, at the same time, to say that no Federal funds can be used for busing when the courts have declared that this is the law. It is irrational for the Federal Government to refuse to have any monetary responsibility for regulations which it has imposed and which it is responsible for enforcing. That is why I introduced an amendment to the Emergency School Desegregation Act during consideration in the Education and Labor Committee which would permit use of Federal funds for busing costs arising from a court order. I am hopeful that a similar amendment will be adopted during consideration of this legislation on the House floor.

Third, the Congress itself has been negligent in establishing a clear-cut policy in this field. While we have addressed ourselves on a number of occasions to the problems arising from dual school systems, we have never made clear the congressional viewpoint with regard to desegregation in "de facto" instances, when school boundaries were drawn without regard to racial composition. I will support an amendment, to be offered by the gentleman from Michigan (Mr. O'HARA), which will make it clear that busing is not required by Federal law where no governmental segregation has been found. In short, in those areas where schools have been built, students assigned, and money spent on a color-blind basis, busing will not be a Federal requirement.

Finally, total racial balance is neither desirable nor practical throughout the Nation. Our efforts must be concentrated on the upgrading of the systems where segregation has taken place by social accident, not by governmental design. Four years ago I joined with a group of Republican colleagues under the leadership of Congressman ALPHONZO BELL in studying urban education. We were distressed by the lack of attention to the special problems of the urban poor—whether black or white—in educational programs. We offered a broad program to correct this difficult problem. Unfortunately, that study has largely been ignored. Until the Government and our people are willing to commit adequate money to erasing these inequalities resulting from their environment, the problems of poverty and ignorance will continue to plague us—particularly in our cities.

It is urgent that the Congress, the administration, and the courts accept our immediate responsibility to settle the confusion and unpredictability surrounding our educational system. Our Nation cannot afford another generation of students whose education suffers because of a lack of stable environment. Let us have rational, rather than emotional discussion and debate. Let those in all three branches of Government accept responsibility to clarify the confusion and to develop a specific functional policy. Then let us commit ourselves to adequate funding to meet the educational needs of all the children within that framework.

Mr. Chairman, I urge the Members to support the Broomfield amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, I support the Broomfield amendment.

I recognize that what the Broomfield amendment does is rather drastic in respect to the control that Congress exercises over the courts, but we are dealing with an extremely drastic problem. The entire problem has been discussed thoroughly. What I would like to do in the brief time available to me is to bring to the attention of the Members the situation which exists in Detroit at the present time and point out to the Members the reasons why I and most of my Democratic colleagues from Michigan support this amendment.

A few weeks ago a Federal judge in Michigan ruled that the extensively integrated Detroit public school system was guilty of de jure segregation. In my judgment that was plowing new legal ground. He gave the Detroit School Board until early December to come up with a new integration plan. He later instructed the State board of education to come up with a new integration plan in early January for a tricounty area affecting some 4.5 million people.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. NEDZI) has expired.

(By unanimous consent, Mr. DINGELL yielded his time to Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, the area we are dealing with encompasses over 80 school districts with over 80 locally elected school boards. The implication of these actions suggests the prospect of court-ordered busing across school district lines and across county lines. There is the prospect that some Detroit school children would be affected by the Detroit plan in December and the tri-county plan in January, which might or might not be implemented together. At any rate there will be one move per child, and perhaps two or three which will have to be regarded as a possibility. In simplest terms there is the prospect that the lives of tens of thousands of school children are threatened with the disruption of changing schools in accordance with a court order that is subject to appeal and subject to overturn.

Suppose a Federal court order compelled busing is ordered and that decision is overturned on appeal? How do you unravel all the transfers which would have already taken place? How do you rectify and remedy the disruption? Furthermore, if the Federal court mandates cross-country busing, the most complex collateral questions will arise. For example, will the right to elect local school boards be altered? Will the obligations on school boards to levy taxes be changed? The highest courts of the land should be given the opportunity to rule and to clarify.

This is a most sensitive and far-reaching issue, worthy of the most careful deliberation. I believe that on October 19, we, cosponsors of the amendment (Messrs. BROOMFIELD, DINGELL, O'HARA, MCDONALD of Michigan, WILLIAM D. FORD, GRIFFITHS, and NEDZI) acted in a logical and responsible manner and in the public interest. We took two steps:

First, we asked Gov. William Milliken, Attorney General Frank Kelley, and the State board of education, all parties to the Detroit case, to "immediately announce their intention to appeal the District Court decision and to take all necessary steps to perfect such appeal." Yesterday, November 3, Governor Milliken announced his intention to appeal. Attorney General Kelley, who is the attorney for the Governor and State board of education can be expected to personally join in the appeal. The further concurrence of the State board of education is probable.

The second step was the introduction of the Broomfield amendment, now before the House.

Both steps are in the interest of equity. Both seek to avoid the wrenching chaos of piecemeal court decisions. I urge the passage of this amendment.

Without it I submit that unnecessary confusion is created in the minds of people, unnecessary emotionalism. There would be no problem whatsoever, in my judgment, to await the final verdict of the court before a busing order of this drastic consequence is implemented.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I would simply like to address my remarks to the Democratic side of the aisle. I had supposed that when this amendment was offered, and it was supposed to be a bipartisan amendment, that we were laying the predicate for the

enactment later on this evening of the emergency school aid legislation, which I think is really the important business yet remaining for the House; yet I have listened in vain for any assurance from this side of the aisle that the adoption of this particular amendment is going to lead to the adoption of the emergency school aid legislation.

I would somehow hope before debate on this particular amendment is concluded we might hear some words from those who up until this time have been silent on that point. And lacking such assurances, I shall most certainly oppose this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BADILLO) to close debate on this amendment.

Mr. BADILLO. Mr. Chairman and members of the committee, I hope before the evening is over that we will all have an opportunity to express our points of view on this issue. Certainly if I have my way we will, because I have an amendment before the House which will strike off the busing provision that the gentleman from Illinois (Mr. PUCINSKI) is putting on the emergency school aid bill. I have an amendment which will strike out the neighborhood school concept which the gentleman from Illinois (Mr. PUCINSKI) is putting on the emergency school aid bill. I also have the House version of the Ribicoff amendment, where we will be able to test out whether this House intends to apply the same standard in the North and the South.

Mr. CAREY of New York. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from New York.

Mr. CAREY of New York. I thank my colleague for yielding.

I just wish to respond on the Record to an unexpected comment from my colleague from Illinois (Mr. ANDERSON), whom I respect very greatly as one of the fine lawyers of the House. I know he agrees with me on the overall principle that justice delayed is justice denied; and he never before has stood in this Chamber and called for broad injunction by amendment in the Committee of the Whole House as to any procedure affecting our court system.

If this be some part of a predicate, as he says, to lay the groundwork to clear the air for the school desegregation bill, I want him to know there are many of us on this side who know nothing about the strategy, nothing about the so-called predicate, and I think it is a bad way to legislate.

If the gentleman knew about this, why did he wait until this time in the debate to bring it up? Why not expose the predicate, so we could all make a common judgment, not under a limitation of time for debate.

Mr. BADILLO. Mr. Chairman, this amendment is dishonest because it only limits a district court and does not in any way limit a State court. Actually we are amending the procedures of the court system. I say we must avoid in this Congress following the same process that was followed by many areas of the South, which discredited the judicial process.

If Members want to vote against busing and neighborhood schools, they will get their opportunity later on. Let us vote down this particular amendment, which does not meet the issue head on and only serves to insure that they will get an automatic right of appeal and delay the process for 2 years even if there is no basis in law or in fact for that appeal.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD).

The question was taken; and the Chairman announced that the ayes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. RYAN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. RYAN. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mr. BROOMFIELD, Mr. PUCINSKI, Mrs. CHISHOLM, and Mr. RUTH.

The Committee divided, and the tellers reported that there were—ayes 235, noes 125, not voting 71, as follows:

[Roll No. 354]

[Recorded Teller Vote]

AYES—235

Abbitt	du Pont	King
Abernethy	Edmondson	Kluczynski
Addabbo	Eilberg	Kuykendall
Alexander	Erlenborn	Kyl
Anderson, Calif.	Esch	Landgrebe
	Eshleman	Latta
Andrews, N. Dak.	Evins, Tenn.	Lennon
	Fisher	Lent
Archer	Flood	Long, Md.
Arends	Flowers	McCollister
Ashbrook	Ford, Gerald R.	McDade
Baring	Ford, William D.	McDonald, Mich.
Bell	Fountain	McEwen
Bennett	Frelinghuysen	McKay
Betts	Frenzel	McKevitt
Bevill	Fulton, Tenn.	McKinney
Biaggi	Fuqua	McMillan
Biester	Galifianakis	Mahon
Boland	Garmatz	Mathias, Calif.
Bow	Gaydos	Matsunaga
Brasco	Gettys	Mazzoli
Bray	Giaimo	Michel
Brooks	Gibbons	Miller, Ohio
Broomfield	Goldwater	Mills, Md.
Brotzman	Goodling	Minshall
Brown, Mich.	Grasso	Mizell
Broyhill, N.C.	Gray	Mollohan
Buchanan	Green, Oreg.	Monagan
Burleson, Tex.	Griffin	Montgomery
Burlison, Mo.	Gross	Murphy, Ill.
Byrnes, Wis.	Grover	Myers
Byron	Haley	Natcher
Caffery	Hall	Nedzi
Camp	Hammer-schmidt	Nelsen
Carter		Nichols
Casey, Tex.	Hanley	O'Hara
Cederberg	Hansen, Wash.	O'Konski
Chamberlain	Harsha	Passman
Chappell	Harvey	Pelly
Clancy	Hastings	Perkins
Clark	Hays	Pettis
Clausen, Don H.	Heinz	Peyser
	Henderson	Pickle
Clawson, Del	Hicks, Mass.	Pike
Cleveland	Hillis	Podell
Collier	Hogan	Poff
Collins, Tex.	Horton	Powell
Colmer	Hull	Price, Tex.
Conable	Hungate	Pryor, Ark.
Cotter	Hunt	Pucinski
Coughlin	Hutchinson	Purcell
Crane	Ichord	Quie
Daniel, Va.	Jacobs	Quillen
Davis, Wis.	Johnson, Pa.	Randall
Delaney	Jonas	Rarick
Dellenback	Jones, Ala.	Rhodes
Devine	Jones, N.C.	Riegle
Dingell	Kazen	Robinson, Va.
Downing	Keating	Robison, N.Y.
Dulski	Kemp	Rogers
Duncan		
Rooney, Pa.	Snyder	Waggonner
Rostenkowski	Spence	Wampler
Roush	Springer	Ware
Rousselot	Stanton, James V.	Whalley
Runnels		Whitehurst
Ruth	Steed	Whitten
Sandman	Steele	Widnall
Satterfield	Steiger, Ariz.	Williams
Saylor	Steiger, Wis.	Wilson, Bob
Scherle	Stratton	Wilson, Charles H.
Scheuer	Stubblefield	
Schmitz	Talcott	Winn
Schneebeli	Teague, Calif.	Wolff
Schwengel	Terry	Wydler
Scott	Thompson, Ga.	Wyman
Shoup	Thomson, Wis.	Yatron
Shriver	Thone	Young, Fla.
Sikes	Tiernan	Young, Tex.
Slack	Vander Jagt	Zablocki
Smith, Calif.	Veysey	Zwach

NOES—125

Abourezk	Eckhardt	Miller, Calif.
Abzug	Edwards, Ala.	Minish
Adams	Edwards, Calif.	Mink
Albert	Evans, Colo.	Mitchell
Anderson, Ill.	Fascell	Moorhead
Anderson, Tenn.	Fish	Morgan
	Flynt	Morse
Andrews, Ala.	Foley	Mosher
Annunzio	Fraser	Moss
Ashley	Gallagher	Murphy, N.Y.
Badillo	Gonzalez	Nix
Begich	Green, Pa.	Obey
Bergland	Gude	O'Neill
Bingham	Hagan	Patten
Blackburn	Harrington	Pepper
Blatnik	Hathaway	Preyer, N.C.
Boggs	Hawkins	Price, Ill.
Bolling	Hechler, W. Va.	Rangel
Brademas	Heckler, Mass.	Reid, N.Y.
Brinkley	Helstoski	Reuss
Burke, Mass.	Hicks, Wash.	Rodino
Burton	Holifield	Roe
Byrne, Pa.	Howard	Roncalio
Carey, N.Y.	Karth	Rooney, N.Y.
Celler	Kastenmeier	Rosenthal
Chisholm	Keith	Roy
Clay	Kyros	Roybal
Collins, Ill.	Landrum	Ryan
Conte	Leggett	St Germain
Conyers	Link	Seiberling
Corman	McClory	Smith, Iowa
Daniels, N.J.	McCloskey	Stokes
Danielson	McCormack	Sullivan
Davis, S.C.	McFall	Symington
de la Garza	Macdonald, Mass.	Thompson, N.J.
Dellums		Van Deerlin
Denholm	Madden	Vanik
Dent	Mailliard	Vigorito
Dickinson	Mann	Waldie
Donohue	Mathis, Ga.	Whalen
Dorn	Mayne	Yates
Dow	Meeds	
Drinan	Melcher	

NOT VOTING—71

Aspin	Halpern	Rees
Aspinall	Hamilton	Roberts
Baker	Hanna	Ruppe
Barrett	Hansen, Idaho	Sarbanes
Belcher	Hébert	Sebelius
Blanton	Hosmer	Shipley
Brown, Ohio	Jarman	Sisk
Broyhill, Va.	Johnson, Calif.	Skubitz
Burke, Fla.	Jones, Tenn.	Smith, N.Y.
Cabell	Kee	Staggers
Carney	Koch	Stanton, J. William
Culver	Lloyd	
Davis, Ga.	Long, La.	Stephens
Dennis	Lujan	Stuckey
Derwinski	McClure	Taylor
Diggs	McCulloch	Teague, Tex.
Dowdy	Martin	Udall
Dwyer	Metcalfe	Ullman
Edwards, La.	Mikva	White
Findley	Mills, Ark.	Wiggins
Forsythe	Patman	Wright
Frey	Pirnie	Wyatt
Griffiths	Poage	Wylie
Gubser	Railsback	Zion

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 278, line 4, after "Sec. 2002." insert "(a)" and following line 19 insert:

"(b) Part A of the General Education Provisions Act is further amended by adding at the end thereof the following:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 408. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system."

POINT OF ORDER

Mr. RYAN. Mr. Chairman, I make a point of order against the amendment.

This amendment does not deal with higher education. In fact, the section to which it is offered is entitled "Modifications of Matching Requirements" and pertains to non-Federal matching contributions to Federal assistance provided to institutions of higher education. Since the amendment is directed to elementary and secondary education, it is foreign to sections dealing with higher education.

There are no funds appropriated in this bill for the purpose of carrying out any program for transportation of students and teachers or for the purchase of equipment for transportation in order to overcome racial imbalance. Nor is there any program in this higher education bill which provides for the transportation of students or of teachers or for the purchase of transportation equipment in order to carry out any plan of racial desegregation of any school or school system.

Mr. Chairman, this amendment is clearly out of order. It is neither germane nor pertinent to the subject matter of the bill, nor does it pertain to the subject matter of the title, which refers to modifications of matching requirements under a heading entitled "Waiver of Matching Requirements in Certain Cases."

Mr. Chairman, I submit that this amendment should be ruled out of order.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman.

Mr. ANDREWS of Alabama. I would like to ask my friend from New York, if I can get his attention, Are you in favor of busing schoolchildren or not?

Mr. RYAN. My position is very clear on that. That does not pertain to the point of order. I am making a point of order that this amendment is not germane to this bill.

Mr. ANDREWS of Alabama. Will the gentleman answer my question?

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I would address myself to the point of order raised by the gentleman from New York.

Mr. Chairman, on page 278, line 4, this bill clearly opens up the General Education Provisions Act for modifications.

I would call your attention to the General Education Provisions Act.

In the compilation of the Federal education laws on page 11, it refers to this section as follows:

The provisions of this title shall apply to any program for which the Commissioner of Education has responsibility for administration either as provided by statute or by delegation pursuant to statute.

The modifications go to the General Education Act and having opened up the General Education Provisions Act, and under the precedents of the House, it cannot now be selectively said that an amendment to that provision would not obtain.

I point out that it is completely consistent with the precedents of the House to say that it is germane. It is an amendment specifically to section 2003, part A. Part A of the General Education Provisions Act applies to appropriations and evaluations. The amendment to which I will address myself clearly comes within the provisions of the General Education Provisions Act and therefore is germane.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from New York makes a point of order against the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), to page 278, line 4, after section 2002. The point of order was raised as to the germaneness of the amendment offered by the gentleman from Ohio. The Chair has examined the amendment. The amendment goes to section 2002 of the bill, which in turn is an amendment to the General Education Provisions Act. The General Education Provisions Act in turn is part of the Elementary and Secondary Education Act of 1967, which is amended in several respects by the pending bill.

So the Chair holds that the amendment offered by the gentleman from Ohio is germane and overrules the point of order.

The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I would point out to the Members that I had printed in the body of the RECORD the text of this amendment. It appears on pages H10344 and H10345 of yesterday's RECORD, along with an explanation of the amendment. One phrase has been added since yesterday—or for the purchase of equipment for such transportation.

Let me very simply explain what this amendment would do and why it is different from the other amendments that have been offered and will be offered.

As has already been pointed out, the General Education Provisions Act applies to every program administered by the U.S. Office of Education, either pursuant to statute or by delegation of authority. In other words, a busing amendment that would go to that particular statute, which is opened up on page 278, section 2002, would go to every single Federal education program.

Now, how is this different from the amendment which you will later have? The amendment of the gentleman from Illinois (Mr. PUCINSKI) will go to the one title of the law. It will serve as a limitation to the Desegregation Act which he will later offer. The amendment that I offer goes to every educational program on the books. So, therefore, it is broad in its coverage where his is limited only to the next title of the act which will be offered later this evening.

I have heard on the floor as opposition to my particular amendment that this is so broad it would cut out transportation in vitally needed areas. I merely ask you to read again the amendment, which clearly operates as a limitation on transportation where desegregation orders or racial balance schemes are perpetrated. It would not apply to any transportation for any other purpose under law, such as transportation for handicapped children, transportation for students in the usual school routine, so do not be misled by anyone who indicates that this would operate as a limitation for transportation under programs of that type.

This is one of the first times we have ever had an opportunity to vote on a busing amendment that goes to every single statute, every single program administered by the U.S. Office of Education. I do not think it is necessary to take a great amount of time in order to point out that this is one different approach. It is not limited. It would not go to one title. It would not go to one program. It goes to every single program administered by the U.S. Office of Education.

I do not think it is necessary to take an hour on this amendment. It has been said that whenever you offer a busing amendment you automatically open up 1, 2, or 3 hours of debate.

This is a very simple amendment. Admittedly it is broad. I happen to believe it is consistent with previous votes we have taken in this Chamber. I heartily encourage the Members to support this busing amendment which will be very broad in its scope and is very much supported and needed by the American people.

AMENDMENT OFFERED BY MRS. GREEN OF OREGON TO THE AMENDMENT OFFERED BY MR. ASHBROOK

Mrs. GREEN of Oregon. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. GREEN of Oregon to the amendment offered by Mr. ASHBROOK:

At the end of the amendment add the following:

"No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee.

Mrs. GREEN of Oregon. Mr. Chairman, I would have done almost anything that was possible not to have had this fight occur as a part of the higher education bill. I have great concern that all of the work that has gone on for a year and a half may go down the drain to-

night. However, I think the moment of truth has arrived and perhaps this vote is inevitable. It has to come some time this year, and so maybe it is just as well that it comes tonight. But I have talked to the Parliamentarian to see if there was any possible way to block the amendments, and I was advised that it was not possible. I have pleaded with the gentleman from California (Mr. BELL) and the gentleman from Illinois (Mr. PUCINSKI) not to offer these amendments.

For some strange reason, the Secretary of Health, Education and Welfare has said this amendment is the most important education bill this year, and so, if it is, let us really face what the facts are. What Mr. Richardson wants is a desegregation bill, and he wants the Federal funds to go to those schools that are either under court orders or under HEW orders to desegregate or that are in the process of voluntarily desegregating.

Most of the Members know my position on busing. I have opposed busing for several years. We tonight cannot go back 100 years to correct the errors that may or may not have been made by our ancestors. It seems to me the only thing we can do is to begin, on November 4, 1971, and look at the state of education in this country and decide what is happening to it. I oppose busing because I do not think it is workable. We had prohibition when I was a small child and it did not work. We repealed the prohibition law.

I think the evidence is overwhelming that busing is not the answer to the very complex school problems of today.

The schools are deteriorating before our eyes. They are decaying. We have many social problems. We cannot find enough money for our classrooms. We cannot find enough money for our teachers. We cannot find enough money to do the things we ought to be doing. Instead we go on this busing binge and spend hundreds of millions of dollars on buying buses and hiring busdrivers. Let me illustrate this in two ways, one a very personal way, and one that I think represents what is happening.

I would suggest that probably everyone in this House whenever he has bought a home, if he has children, has looked at the schools before he has purchased a home. It is a major factor. I never participated in the buying of a home without inquiring about the schools that my boys would attend. If the Federal Government then is going to reach its long arm into my home and say, "Well, we are sorry, you bought your home here, but your children are going to have to be bused 30 miles," I say the Government has gone too far.

Now let me illustrate it on a greater scale.

If my colleagues from Los Angeles tell me I am in error I will rescind what I am saying. I had lunch with the superintendent of the school board in Los Angeles a couple of years ago. About 5 weeks ago, when this desegregation bill came up, I called the school superintendent's office.

This is my best information; that in Los Angeles they have not passed a bond issue since 1958, and they have not passed a tax levy since 1966. The earthquake of February, I am advised, has required the total abandonment or major repair of 65 buildings, and they do not have the funds. This year they are cutting out $50 million in programs for boys and girls that would somehow have helped to improve the quality of education.

They are under a court order. It is being appealed. But if the court order is upheld, I am advised that during the first year it will cost $42 million to buy buses and to hire busdrivers, and in each succeeding year it is going to cost between $20 and $25 million.

So while we somehow salve our consciences and think we are making up for the errors of the past by busing children because 100 years ago they bused them in the other direction, I suggest to you it is not the answer. Those $42 million or $20 million, or whatever they are, ought to be spent on boys and girls, rather than to have adults arguing or trying to solve social problems.

Now let me go to my amendment.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The time of the gentlewoman from Oregon has expired.

(By unanimous consent, Mrs. GREEN of Oregon was allowed to proceed for 3 additional minutes.)

Mrs. GREEN of Oregon. I think the moment of truth is here. The President has said no Federal funds are to be used for busing. Most of us thought that was great—or many of us did. But what has happened? I know of one case where the Secretary of Health, Education, and Welfare went to a school in Georgia and he said—

> If you will carry out this plan, you understand we cannot spend Federal funds. It is going to cost you $2.2 million to do this, and we cannot spend Federal funds. But if you spend your local funds for it we will promise to reimburse you.

I call that the height of hypocrisy. If this administration says that none of the Federal funds are to be spent for busing how in the world can they turn around and say, "But you have to spend your local or your State funds to accomplish the objectives, the social goals we have decided you ought to accomplish here in Washington."

This amendment I have offered merely says that neither HEW nor any other agency of the executive branch, can impose upon any local school district or State any requirements for any programs which require the expenditure of State or local funds for those purposes for which the Federal funds cannot be spent. That is all it is. It seems to me if we are not going to spend the Federal funds we have no business making requirements for the expenditure of local funds.

I hope that the amendment will be adopted.

Mr. PUCINSKI. Mr. Chairman, I move to strike the last word.

I ask the gentlewoman from Oregon to clarify this amendment, if she would be good enough. The amendment says:

> No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used. . . .

Do I correctly understand what this means is that the agency itself cannot induce, order, persuade, or require the things I have mentioned? Is that correct?

Mrs. GREEN of Oregon. That is correct. No officer or employee.

Mr. PUCINSKI. What is the situation in the case of a court order?

Mrs. GREEN of Oregon. This says "no officer or employee of the Department of HEW or any other Federal agency."

Mr. PUCINSKI. What if the local education agency decides to do these things on their own volition without any directive or requirement by the Federal agency?

Mrs. GREEN of Oregon. The gentleman can read the amendment. It does not touch any voluntary action that is taken.

Mr. PUCINSKI. That is the point. It does not disturb voluntary action, but it does impose the most rigid restrictions that the gentlewoman can impose on any directives from the Federal Government.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. PUCINSKI. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. May I ask the distinguished gentlewoman from Oregon this question: is this an amendment to the Ashbrook amendment? It is not a substitute to the Ashbrook amendment, is it?

Mrs. GREEN of Oregon. No, it is not a substitute. It is an amendment to and addition to the Ashbrook amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

At this late hour, Mr. Chairman, I certainly do not need to take 5 minutes, but I merely wish to tell the gentlewoman from Oregon that I wholeheartedly accept her amendment and hope it will be adopted and that the amendment to the amendment will be adopted.

Mr. HAWKINS. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I take this time because the gentlewoman from Oregon, I think, was rather misleading—and I am sure it was not intentional—in discussing the situation in Los Angeles. The court was very patient with the Los Angeles Board of Education, and it has been over a period of almost a decade. The court in making the decision in that particular case said—and this was a State and not a Federal court—that the Los Angeles Board of Education had every opportunity that any agency could possibly have to comply with the 1954 Supreme Court decision. The court said that the board of education had the opportunity to draw attendance area boundaries in a way which would have brought about desegregation without busing; that it had the opportunity to

select sites of new schools to avoid increased segregation, which it had failed to do; that it had not attempted to take creative or innovative methods to improve the schools; that it had not done anything about the transfer policies. As a matter of fact, it had passed policies which facilitated segregation and failed to establish model schools or to adopt a comprehensive plan of any kind for desegregation. It used its educational funds in such a way that it brought about inferior black schools in one part of the city and much better, higher quality schools, white schools, in another section of the school district. It said that it had done nothing to upgrade these inferior schools and to reduce the pupil-teacher ratios. The court then went on for several other paragraphs to cite official action in violation of the 1954 school decision.

The point is, Mr. Chairman, those of you who tonight speak of busing are speaking of what is now being required by the courts as the last resort. For more than 15 years the court did not mention the subject of busing. It left it up to the local school districts and up to you, the public officials, to sustain the principle that had been laid down by the Supreme Court decision. We had every opportunity to do many things to avoid the issue of busing. Those of you who talk about busing tonight as an evil curse—have voted against appropriations in this body that would have upgraded the schools. You have voted to sustain inferior black schools while building up better quality ones in white schools if at all. Then you object to the courts when they say that you cannot do this under the 14th amendment.

We have left the leadership to the courts and busing now seems to be the only thing left to do.

Somehow we are beginning to practice witchcraft. So, you want to do away with busing, legally if possible, but illegally if necessary. So, you would say to some misguided souls burn up the buses, bomb them, get rid of them in some way because it is evil. What type of witchcraft are we practicing?

Are we going to address ourselves to the problem of education by destroying buses?

Now, Mr. Chairman, it seems to me that some of us would be better advised to go to the parents and to ask them to address themselves to the real issue. What are the children doing? Are their children committing violence in the schools? Are they addicted to drugs?

Are they for the free love? These and many other problems are involved in our schools today. Is busing an evil curse? Most of us walked to school over long distances and were glad to get an education. Many children now want to go to school in Lincoln Continentals and foreign-made automobiles. I see nothing wrong about being bused to school at public expense if it means getting a better education.

Mr. Chairman, we are the ones who have created this problem. Busing is widespread. Over 60 percent of public school children are bused.

I have two examples to give to you. One exists on Capitol Hill. I see black and white parents who live across from me on North Carolina Avenue who bus their children to school every day. They are not busing them to obtain desegregation. They are busing them because they consider the neighborhood schools inferior schools.

Another example is in a district a few miles south of San Francisco where a model school was built in a black ghetto and the white parents want to bus their children to it because it is a good school.

Mr. Chairman, I say to the members of the Committee tonight that we had better address ourselves to the real issues in American education. I therefore ask for a "no" vote on the amendment.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I read the Green amendment, it is true what the gentleman from Illinois (Mr. PUCINSKI) suggests, that it would not preclude the local school districts from doing these things if they wanted to do them, but it seems to me it would preclude the Department of Health, Education, and Welfare from enforcing title VI of the Civil Rights Act to the extent that they are affected by the Swann decision.

It is my understanding that the Swann decision is now the law of the land, but that this language would prohibit the use of Federal funds to carry out the law if the Ashbrook amendment prevails. The amendment of the gentlelady from Oregon would mean that no officer of HEW could urge or require schools to transport children in order to overcome racial isolation as required under title VI of the Civil Rights Act. I just do not think that is right for our committee here to take that action which would in effect negate an action that this Congress took previously in passing the Civil Rights Act. Unfortunately it is written in such a way that I doubt it could have been subject to a point of order.

But, Mr. Chairman, let me make my own position on this whole busing question clear.

I do not feel that it is wise for us to be busing children all over the place just to conduct some social experiment and move them past their own school to some other school. I don't believe in forced busing. But I believe there are some methods by which schools can bring about more racial integration without it being harmful to the schools. I will give you an example of one case in Minneapolis. They have a situation there as I understand it so that instead of all the children in the first six grades in two areas going to two different schools, they have three grades in one school and three grades in the other which they call pairing. I do not see that that is harmful because we do send children from a larger area to junior high schools with a number of grade schools in that area. That is one method which is in use today and could require busing children.

Were my children going to school back home in Minnesota they would be going 18 miles in order to go to high school on a bus, but they would not look at that as so extremely harmful themselves.

The truth is, as the gentleman from California (Mr. HAWKINS) mentioned, that some people walked to school when they were young in the earlier days. I had to drive a car to school, because there was no bus going there at that time.

But let us be rational about this: There are times when the Federal Government has said to the schools that you must bus. That was the situation in the Swann decision. Now the President has said let us provide $1.5 billion in order to help out some of the school districts who are or will be desegregating. So the Federal Government says to some schools you must bus, and the Federal Government says here is $1.5 billion, but you cannot bus with this money even it told them they must. The same situation obtains with the enforcement of the Civil Rights Act, because the Swann decision approved extensive busing if necessary to achieve desegregation, as I understand. Then take any school district that voluntarily wants to desegregate their school. It is not forced on them at all. The school board, which is elected by the people, decides that they want to voluntarily desegregate their schools. And, remember, they come up for reelection, and if they do not do the job that the people demand then they will get defeated, but if they want to use some of this money to bring about integration of their schools, and the people do not want it they can correct it by the election method.

But the schools who wish to desegregate or end racial isolation should be permitted to do so. I do not believe the Federal Government should deny the schools that right and that opportunity to do it.

But I am saying that I as a person do not want to engage in social experiments which call for the busing of kids across three counties that they are talking about in Detroit. And I cannot understand that decision any more than the rest of you do, and I recognize the problem there.

But let use not cut off any funds that might go to a school to bus their kids, which the Federal Government says they must do—which the Federal Government required through our courts. The judicial branch is a separate branch of the Government that we cannot deny. We may feel that some court decisions are contrary to the best interests of many citizens right now, but yet as a principle, let us not try to undo a branch of the Government that is absolutely fundamental to our system of government. I do not believe we ought to be throwing brickbats at the courts which is the branch of Government we must depend on to protect our constitutional rights.

Mr. BADILLO. Mr. Chairman, I move to strike the requisite number of words.

It is important, Mr. Chairman, that we take time out to state our positions frankly on both sides as the gentlewoman from Oregon has done in stating her point of view. The question involved here is not whether we are engaging in social experiments, the question involved is whether we are going to respect the law. The issue of busing came up when the Supreme Court said that it was unconstitutional to have separate schools, and that the States and the localities had to take action with all deliberate speed to end this. And because the reality was such that segregation was caused by

housing patterns, the only recourse left in most cases is to bus.

So it is not a question of a social experiment at all. It is a question of deciding whether we are going to obey the Constitution of the United States. We are not going to change the Constitution by passing this amendment here. All we are going to do is make believe that we are changing it, because you know that the decisions of the U.S. Supreme Court are going to continue to be the law of the land until a constitutional amendment is passed, and nothing that this Congress can do tonight or any other time is going to change that.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from California.

Mr. BURTON. Mr. Chairman, I applaud and endorse the statement made by the gentleman from New York, as well as that of our colleague, the gentleman from California (Mr. HAWKINS). The courts of the United States have developed a plan that we, as elected representatives of the people, have the responsibility to execute and implement, and not throttle nor cripple, but to use all useful and reasonable means to implement the constitutional mandate.

Again I commend the gentleman from New York, and associate myself with his views.

Mr. BADILLO. Thank you. I appreciate my colleague's remarks. But what I want to point out is that we must be very careful. What is involved here is whether we are going to follow the pattern which many Southern States have followed, of trying to pretend that a legislative body can alone change the Constitution.

You know the Southern States were not successful and we are not going to be successful. But in the process of following that pattern which did not work, we are going to discredit the most important legislature in this country—we are going to discredit the U.S. Congress—because we are going to adopt the point of view which did not work before and is not going to work now.

If you really want to change the Constitution of the United States, then ask for a constitutional amendment. But let us make sure that we in this Congress show respect for the law and that we do not go into subterfuges which make our people believe that the Constitution is being changed and then have them find out 2 or 3 years later that it was not changed—as they found out when the Southern States did the same thing.

I want to say to the gentlewoman from Oregon and to some of my colleagues from the North, the last thing we should do here is to follow the pattern and the advice of the gentleman from the South—because it did not work in the South and it is not going to work in the North if we follow their example.

I urge you to defeat these two amendments.

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, 17 years ago the U.S. Supreme Court made a decision in the Brown case that there should be desegregation with all deliberate speed. Seventeen years have elapsed and there has been no deliberate speed in desegregation. In many sections there has been no desegregation.

We hear a great deal of talk in opposition to busing. There is no real opposition to busing. It is what happens at the end of the line. If busing is used to desegregate, then those who are opposed to desegregation are opposed to busing. So the question here is not busing. It is whether or not we are going to have integration—the law of the land. The question is the old question of whether or not we are going to integrate our schools or whether we are going to keep the schools segregated, and whether we are going to have equality in the schools or have schools that are different—separate but equal.

There has been a great deal of excitement. There is a great deal of haste. There is a great deal of hysteria that I have observed in this Chamber tonight, and amidst that haste and hysteria and excitement and emotion, you cannot get good legislation.

There is a great deal of controversy concerning this question of busing. A constitutional amendment has been offered, several have been offered and discharge petitions are at the Speaker's desk. Over 100 Members have signed a discharge petition to discharge the Committee on the Judiciary which has a number of these bills from further consideration.

I pledge you here and now, in order to evolve an appropriate remedy for this very vexatious question, to have the House Judiciary Committee conduct in the not too far future hearings on this subject of busing. We will hear all and sundry—not only Members of the House—but we will hear all those who have any kind of expertise in this subject. Thus there will be focused thereupon every conceivable view and aspect of the problem so that we members of the Committee on the Judiciary on which there are 36 trained lawyers, many of whom have much skill in the legal profession and in national affairs, men who are wise, men who know how to make discriminations, and men in whom I am sure you have considerable confidence—who will come up with some wise and proper solution.

I hope, therefore, that we will vote down these amendments. I fear you are making snap, hasty, ill-considered judgment, judgment without due consideration of all nuances of this very worrisome question. Let us have an opportunity to wrestle with this problem, and I am sure we will come up with something that will be satisfactory at least to the majority of the Members of this House, and because thereof, I honestly hope that you will vote down this amendment and the amendment to which it is an amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Massachusetts.

Mr. CONTE. The gentleman mentioned the Brown decision 17 years ago. I concur with the gentleman. Further, does not the gentleman feel that the gentlewoman's amendment negates title VI of the Civil Rights Act of 1964 that was passed by this House, the nondiscrimination measure applied to federally assisted programs?

Mr. CELLER. I am inclined to agree with the gentleman. That is another reason why I think there should be hesitation in making a decision on this subject now.

Mr. HOGAN. Mr. Chairman, I rise in support of the Ashbrook amendment as amended by the Green amendment. This amendment now reads:

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officers or employee which would be prohibited by clause (1) on the part of a Federal officer or employee.

Earlier tonight I voted for the Broomfield amendment which reads:

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

Taking as an example the Prince Georges County School Board in my own congressional district, we find that during this past summer the board of education was presented with a massive busing plan which would have required the busing of some 7,000 elementary children up to 14 miles at an estimated cost of over $1 million. Such a plan made no sense, particularly when over 5,000 of those students are now within walking distance of their schools, and I am pleased that the school board was wise enough to reject this plan.

As a result of this rejection of the busing plan, Mr. J. Stanley Pottinger, director of HEW's Office of Civil Rights, in August notified the board that it was in violation of title VI of the Civil Rights Act of 1964. Administrative enforcement proceedings have been initiated against the board which would result in the elimination of $14 million of needed Federal funding to which the school system

is entitled under the Emergency School Act program and title VI of the 1964 Civil Rights Act.

Because of the manner in which the Department of Health, Education, and Welfare has proceeded in its dealings with the Prince Georges County School Board in its attempts to achieve racial integration, the school board has now filed for injunctive relief in the U.S. District Court in Baltimore, charging that HEW has violated its procedures in dealings with the board and arguing that those violations constitute denial of due process.

In support of this move on the part of the school board in my congressional district, I called to my colleagues' attention yesterday that I have requested the General Accounting Office to review the administrative procedures of HEW in implementing school desegregation plans and the Emergency School Act program. While my request for this audit arises from the particular negotiations between HEW and the Prince Georges County School Board. I am asking for a GAO audit on the basis of a broad national review of HEW procedures in the event that other school districts around the country are experiencing similar procedural problems which result in actions detrimental to the individual school systems.

Mr. Chairman, sometimes Government bureaucracies tend to forget that they exist to serve the people, and not vice versa. If HEW bureaucrats have forgotten they are the servants of the people, and if the procedures they have designed and enforce mean hardships rather than service for the people, then something is terribly wrong.

As I stand here this evening, Mr. Chairman, arguing the merits and the necessity for this antibusing amendment, it seems to me that this should all be so unnecessary. I have only served in the Congress since the start of the 91st Congress in January 1969. Since that time, I have cast my vote against busing on at least five occasions that I can recall.

These five votes are as follows:

First. On December 18, 1969, I voted against the Senate amendments to the Labor-HEW appropriations measure which added the words "except as required by the Constitution" to language in the bill prohibiting funds from being used to force busing of students, abolishment of any school, or assignment of any elementary or secondary school student against the student's or parent's choice, and forbidding busing of students to a particular school as a condition precedent to obtaining Federal funds. This body failed by a vote of 181 to 216 to strip this Senate language from the appropriations measure and consequently we have come to see what many of us feared on December 18, 1969; that is, that HEW would use the Senate language as a loophole to nullify this antibusing provision.

Second. On February 19, 1970, this body passed the Labor-HEW appropriations—a new bill reported after the President vetoed the December 18 measure—by a vote of 315 to 81. This bill included the same anti-busing provision as the earlier bill without the Senate amendments. It also included a freedom of choice provision to the effect that no funds contained in the act be used to provide, formulate, carry out or implement any plan that would deny any student the right of attending any public school of his choice as selected by parent or guardian.

Third. On March 3, 1970, two votes were taken on the conference report on the Labor-HEW appropriations. The first vote on a motion to table the motion to accept the watered-down Senate anti-busing and freedom of choice amendment was defeated 164 to 222. The second vote to agree to the Senate language to modify the antibusing provisions "except as required by the Constitution" passed by a vote of 231 to 152.

Fourth. On June 30, 1970, this body clearly voted to table a motion to instruct conferees on the Office of Education Appropriations to agree to Senate amendments to strike out provisions prohibiting use of funds appropriated under the bill for forced busing and designed to protect freedom of choice school plans.

Fifth. Finally, Mr. Chairman, just this past Monday, November 1, this body failed to suspend the rules and pass H.R. 2266, the Emergency School Aid Act which we are tonight appending to the higher education bill. Clearly the negative vote of 135–222 expressed this body's disapproval of the committee version of the bill which blatantly endorsed Federal funding of massive busing programs.

So here we are again, Mr. Chairman, after this body has repeatedly expressed its opinion that massive busing is not a viable means for integrating schools, we are once again forced into the position of reiterating our posture. It seems that whatever we do in Congress, HEW ignores it and goes its way thwarting the will of the people as expressed here in Congress.

I wholeheartedly urge that this antibusing amendment be approved.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The question is on the amendment offered by the gentlewoman from Oregon (Mrs. GREEN) to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. BURTON. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. BURTON. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mrs. GREEN of Oregon, and Messrs. QUIE, ASHBROOK, and HAWKINS.

The Committee divided, and the tellers reported that there were—ayes 231, noes 126, not voting 74, as follows:

[Roll No. 355]

[Recorded Teller Vote]

AYES—231

Abbitt	Andrews, N. Dak.	Bevill
Abernethy		Biaggi
Alexander	Archer	Blackburn
Anderson, Calif.	Arends	Boland
	Ashbrook	Bow
Anderson, Tenn.	Baring	Bray
	Bennett	Brinkley
Andrews, Ala.	Betts	Brooks
Broomfield	Hammer-schmidt	Poff
Brotzman		Powell
Broyhill, N.C.	Hansen, Wash.	Price, Tex.
Buchanan	Harsha	Pryor, Ark.
Burleson, Tex.	Harvey	Pucinski
Burlison, Mo.	Hastings	Purcell
Byrnes, Wis.	Hays	Quillen
Byron	Heinz	Randall
Caffery	Henderson	Rarick
Camp	Hicks, Mass.	Rhodes
Carter	Hicks, Wash.	Robinson, Va.
Casey, Tex.	Hillis	Robison, N.Y.
Cederberg	Hogan	Roe
Chamberlain	Horton	Rogers
Chappell	Hull	Rooney, Pa.
Clancy	Hungate	Roush
Clark	Hunt	Rousselot
Clausen, Don H.	Hutchinson	Runnels
	Ichord	Ruth
Clawson, Del	Johnson, Pa.	St Germain
Cleveland	Jones, Ala.	Sandman
Collier	Jones, N.C.	Satterfield
Collins, Tex.	Kazen	Saylor
Colmer	Keating	Scherle
Cotter	Keith	Schmitz
Crane	Kemp	Schneebeli
Daniel, Va.	King	Schwengel
Davis, S.C.	Kuykendall	Scott
Davis, Wis.	Kyl	Shipley
de la Garza	Landgrebe	Shoup
Delaney	Landrum	Shriver
Devine	Latta	Sikes
Dickinson	Lennon	Slack
Dingell	Lent	Smith, Calif.
Donohue	Long, Md.	Smith, Iowa
Downing	McCollister	Snyder
Dulski	McDonald, Mich.	Spence
Duncan		Springer
du Pont	McEwen	Stanton, James V.
Edmondson	McKay	
Edwards, Ala.	McKevitt	Steed
Eilberg	McKinney	Steele
Eshleman	McMillan	Steiger, Ariz.
Evins, Tenn.	Macdonald, Mass.	Stratton
Fisher		Stubblefield
Flood	Mahon	Sullivan
Flynt	Mann	Talcott
Ford, Gerald R.	Mathias, Calif.	Teague, Calif.
Ford, William D.	Mathis, Ga.	Terry
	Mazzoli	Thompson, Ga.
Fountain	Michel	Thomson, Wis.
Frelinghuysen	Miller, Ohio	Thone
Fulton, Tenn.	Mills, Md.	Tiernan
Fuqua	Minshall	Vander Jagt
Galifianakis	Mizell	Veysey
Garmatz	Mollohan	Vigorito
Gaydos	Monagan	Waggonner
Gettys	Montgomery	Wampler
Giaimo	Murphy, N.Y.	Ware
Gibbons	Myers	Whalley
Goldwater	Natcher	Whitehurst
Gonzalez	Nedzi	Whitten
Goodling	Nelsen	Williams
Grasso	Nichols	Wilson, Bob
Gray	O'Hara	Wilson, Charles H.
Green, Oreg.	O'Konski	
Griffin	Passman	Winn
Gross	Pelly	Wydler
Grover	Pettis	Wyman
Hagan	Peyser	Yatron
Haley	Pickle	Young, Fla.
Hall	Pike	Young, Tex.
		Zablocki

NOES—126

Abourezk	Corman	Helstoski
Abzug	Coughlin	Holifield
Addabbo	Daniels, N.J.	Howard
Albert	Danielson	Jacobs
Anderson, Ill.	Dellenback	Jonas
Annunzio	Dellums	Karth
Ashley	Denholm	Kastenmeier
Badillo	Dent	Kluczynski
Begich	Dorn	Kyros
Bell	Dow	Leggett
Bergland	Drinan	Link
Biester	Eckhardt	McClory
Bingham	Edwards, Calif.	McCloskey
Blatnik	Erlenborn	McCormack
Boggs	Esch	McDade
Bolling	Evans, Colo.	McFall
Brademas	Fascell	Madden
Brasco	Fish	Mailliard
Brown, Mich.	Foley	Matsunaga
Burke, Mass.	Fraser	Mayne
Burton	Frenzel	Meeds
Byrne, Pa.	Gallagher	Melcher
Carey, N.Y.	Green, Pa.	Miller, Calif.
Celler	Gude	Minish
Chisholm	Hanley	Mink
Clay	Harrington	Mitchell
Collins, Ill.	Hathaway	Moorhead
Conable	Hawkins	Morgan
Conte	Hechler, W. Va.	Morse
Conyers	Heckler, Mass.	Mosher

Moss	Rangel	Seiberling
Murphy, Ill.	Reid, N.Y.	Steiger, Wis.
Nix	Reuss	Stokes
Obey	Riegle	Symington
O'Neill	Rodino	Thompson, N.J.
Patten	Roncalio	Van Deerlin
Pepper	Rooney, N.Y.	Vanik
Perkins	Rosenthal	Waldie
Podell	Rostenkowski	Whalen
Preyer, N.C.	Roy	Wolff
Price, Ill.	Roybal	Yates
Quie	Ryan	Zwach

NOT VOTING—74

Adams	Gubser	Rees
Aspin	Halpern	Roberts
Aspinall	Hamilton	Ruppe
Baker	Hanna	Sarbanes
Barrett	Hansen, Idaho	Scheuer
Belcher	Hébert	Sebelius
Blanton	Hosmer	Sisk
Brown, Ohio	Jarman	Skubitz
Broyhill, Va.	Johnson, Calif.	Smith, N.Y.
Burke, Fla.	Jones, Tenn.	Staggers
Cabell	Kee	Stanton, J. William
Carney	Koch	Stephens
Culver	Lloyd	Stuckey
Davis, Ga.	Long, La.	Taylor
Dennis	Lujan	Teague, Tex.
Derwinski	McClure	Udall
Diggs	McCulloch	Ullman
Dowdy	Martin	White
Dwyer	Metcalfe	Widnall
Edwards, La.	Mikva	Wiggins
Findley	Mills, Ark.	Wright
Flowers	Patman	Wyatt
Forsythe	Pirnie	Wylie
Frey	Poage	Zion
Griffiths	Railsback	

So the amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. ESCH TO THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ESCH. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the gentleman from Michigan offering an amendment to the Ashbrook amendment?

Mr. ESCH. Yes.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ESCH to the amendment offered by Mr. ASHBROOK:

The amendment is amended by striking the period at the end thereof and inserting: "; *Provided, however,* that this prohibition shall not apply to a local educational agency which is carrying out a plan of racial desegregation of its schools pursuant to the order of a court of competent jurisdiction."

Mr. CELLER. Mr. Chairman, I ask unanimous consent that the amendment be reread.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GERALD R. FORD. Reserving the right to object, Mr. Chairman, I only do this to clarify a parliamentary situation. I wish the time would not be taken out of the time of the gentleman from Michigan (Mr. ESCH).

As I understand the parliamentary situation, the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) is pending. We have just approved the amendment to the amendment offered by the gentlewoman from Oregon. I am concerned where in the text the amendment of the gentleman from Michigan (Mr. ESCH) would appear.

The CHAIRMAN pro tempore. The Chair is now entertaining a unanimous-consent request of the gentleman from New York that the amendment be reread.

Mr. GERALD R. FORD. May I amend the request of the gentleman from New York? If the amendment of the gentleman from Ohio could be read as amended by the amendment of the gentlewoman from Oregon as proposed to be amended by the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Will the gentleman yield for a moment?

Mr. GERALD R. FORD. I yield.

Mr. ESCH. I would just state to the gentleman from Michigan, our distinguished minority leader, that my amendment does not affect either the Ashbrook amendment as amended by the Green amendment. My amendment goes at the end of the Ashbrook amendment as amended.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York that the amendment be reread?

There was no objection.

The Clerk reread the amendment.

Mr. ESCH. Mr. Chairman, I think that this is a perfecting amendment to the amendment of the gentleman from Ohio.

This amendment does one thing and it does it very clearly. It is a perfecting amendment.

I believe that the Members can support this amendment, irrespective of their views on segregation. It does just this one thing: It says that, even though we have made prohibitions against using funds for busing, those prohibitions will not apply to those school districts that are already under a plan of carrying out racial desegregation of its schools pursuant to a court order.

There are now approximately 2,000 school districts in this country which are under court order to bus. I do not believe there is a Member in this House who would say that, if there is a court order to bus, that the Federal Government then should not be responsible to help that local school district in the busing operation. This is the essence of this amendment. It strikes just at those areas which are under court order and it explicitly states that, where they are under court order, funds can be used for busing purposes.

Mr. Chairman, I would urge the Members to support the amendment.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Illinois.

Mr. PUCINSKI. The first question which I have to propound to the gentleman from Michigan is this: Will this then not encourage courts to order massive busing plans, even though other plans might be appropriate, simply because the gentleman has made sure that the Federal Government is going to pay for all of the busing?

Mr. ESCH. I would say to the gentleman that the amendment which has been adopted and which was offered by the gentleman from Michigan (Mr. BROOMFIELD) does not apply in any case until it is carried to its highest appeal, and the second answer is "no," given the amendment of the gentlewoman from Oregon. My answer would be "no."

Mr. PUCINSKI. Mr. Chairman, if the gentleman will yield further, the gentleman has said to the gentleman from Michigan (Mr. GERALD R. FORD) that this proviso goes at the end of the amendment offered by the gentlewoman from Oregon (Mrs. GREEN). This means then that in the case of court-ordered districts, HEW and all the things that Mrs. GREEN proposed would be permissible and operative if this proviso is approved?

Mr. ESCH. In the case of court-ordered districts, the provisions of the prohibition embodied in this particular amendment would not apply. This would not allow the courts to order busing to take place and then have the Federal Government turn around and refuse to help pay for those busing problems.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. As a matter of fact, your amendment would continue busing where courts have ordered busing; is that right? It would apply mostly to the South; is that right?

Mr. ESCH. I would answer the gentleman this way: If a school district is under court order to bus, they are going to have to bus in any case. What my amendment does is not to require busing but to say that Federal funds can be used to help local school districts that are in financial trouble with reference to school busing, and in order to do so——

Mr. ANDREWS of Alabama. Does the gentleman say "busing?"

Mr. ESCH. I say that this is the Esch amendment.

Mr. ANDREWS of Alabama. And it would apply in the South only.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take 5 minutes.

The amendment which I offered and which has just been approved had one prohibition. It said that Federal funds cannot be spent for a particular purpose and that nobody in the executive branch or any Federal agency can require a State or local school district to spend their funds for the purposes that the expenditure of Federal funds is prohibited.

As I understand the amendment which has been offered by the gentleman from Michigan and, maybe, this was not the gentleman's intent, he adds with a comma, "provided however that this prohibition"—and I must interpret that as a prohibition in the amendment which I offered. This prohibition, the expenditure of State and local funds shall not apply to a local agency carrying out a racial desegregation plan pursuant to an order of a court of competent jurisdiction.

Now, what it is saying is that you still will have to spend your local or State funds for the purpose for which you do not want to allow the Federal funds to be spent. All I am saying is that if this Congress in its wisdom decides that the Federal funds shall not be spent for these

purposes I think it is hyprocrisy to turn around and then give another branch of the Federal Government the authority to go into the local districts and say you have to spend your local funds for that. Let us decide whether or not Federal funds are to be spent for it. If they are to be spent, then I would have no objection. But I think it is very unwise, and I think it is real hypocrisy. I have great affection and admiration for my friend, the gentleman from Michigan, but this simply erases in my judgment the amendment which was just voted on.

Mr. HAYS. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I think the gentlewoman has put the exact and correct interpretation on it, there is no question about it. I did not see who it was, but whoever it was who said that it was aimed primarily at the South was putting the correct interpretation on that, there is no question about that.

Mr. WAGGONNER. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I will be glad to yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentlewoman for yielding.

The thing we have to remember as we give consideration to this proposed, so-called perfecting amendment, is that you are undoing what you have just started doing, and that is that we have begun, finally, to express a national policy in opposition to busing, period. And that is what we must continue to do, and you cannot relax this prohibition if you are going to have a prohibitive policy against busing.

Mr. BROWN of Michigan. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I would say as a lawyer that this amendment smacks of champerty and maintenance because a voluntary plan which would not justify the use of Federal funds, could be submitted to the courts and when decreed, under the Esch amendment, Federal funds could be used—in effect, the Esch amendment would encourage litigation.

Mr. ASHBROOK. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Ohio.

Mr. ASHBOOK. Mr. Chairman, the gentlewoman from Oregon has stated the case exactly. I would merely like to add, on her time, because I do not think it is necessary to take a full 5 minutes to do so, that while I appreciate the intentions of the gentleman from Michigan, it is not correct to say that his is a perfecting amendment to either of our amendments. It would be correct to say that it vitally changes not only the thrust, but the purposes of those amendments, and I would suggest that the amendment be defeated.

The CHAIRMAN pro tempore. The time of the gentlewoman from Oregon has expired.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the gentleman from Michigan (Mr. ESCH) would respond to me I would appreciate it.

Would it be an accurate statement to say that the amendment you have offered is intended by the words "this prohibition" to apply to the first sentence of the prohibition of the Ashbrook amendment rather than to the Green amendment?

Mr. ESCH. If the gentleman will yield, the gentleman is correct in that it applies to the Ashbrook amendment, as amended.

Mr. BENNETT. That being the case, Mr. Chairman, I would like to say something. I do not often speak on the floor of the House, as you all know. I used to vote for the Whitten amendment with the idea that it would accomplish something I thought by the process of announcing that no funds should be spent for busing for racial ratios that in fact there would be no busing for racial ratios. I voted for those things hoping that would be so, because I oppose this idea of racial ratios being achieved by busing. But I have come to the conclusion that is no longer so. I know it is no longer so. I believe you are indulging in fighting windmills if you think it is so any longer.

The courts will decree busing for racial ratios if they desire to do so, and nothing that you say, by saying there are not going to be any Federal funds involved in it, will change it one iota, not even if you say there will not be any State or local funds involved in it at all.

Now look at my home district. Sixty-nine percent of the students of the district I represent are bused for racial ratios. About 85,000 students are bused for racial ratios.

My congressional district is 20 to 30 miles wide, and my school district is as wide and has 800-and-some-odd square miles, and people are bused in this tremendous district through the downtown traffic all the way across town—black people as well as white people—and they are furious about it. As a matter of fact, black people appealed the decision of the local court which had to do with busing because, they said, "it is hard enough to raise children in 1970 and 1971 without busing them for hours before daybreak and after dark across the city of Jacksonville, which is a big city."

So the truth of the matter is, as I stand before you tonight, it does not make any difference whether you say there are going to be no Federal funds for busing or not, because the courts are going to go ahead and say there is going to be busing, and the money is going to come out of the teachers' salaries, and out of gym and out of art classes, and out of things that could enrich education.

So let us not kid ourselves about it. Time is passed. It has gone. So I, myself, am supporting the Ashbrook amendment and am supporting the Esch amendment today, because I think this does only justice. How cruel can you be to a community like mine—which is not a rich community. It is a northern Florida community.

Anybody who knows Jacksonville knows what a wonderful city it is. But the average income of both black and white in the community that I represent is low. It is not the Gold Coast of Florida. There are people who have a hard time raising the money to send their kids to school and to have adequate schooling.

The courts have decreed that all the people, these multithousands of people, a tremendous percentage of our population, shall be bused across the center of Jacksonville and shall be bused in all directions as is now being done. This is in a school system that is barely able to hold its head up anyway. In fact, all the schools in my district were nonaccredited as of about 2 or 3 years ago.

We were about making our way out of it by passing bond issues and that sort of thing, and then came along the court decisions which decided we had to bus for racial ratios.

So I plead with you tonight. Do not be emotional about it. Be thoughtful about it. The courts are going to make decisions that you have to bus whether you have Federal, State, or local funds and it is going to come out of adequate education. So I plead with you to please support the Esch amendment and the Ashbrook amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in support of the Esch amendment.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I appreciate the comment of the preceding gentleman. I think he raised the very point of clarification as to the intent of the Esch amendment.

The intent of the Esch amendment is to do one thing and that is to allow Federal funds—but not to require—allow Federal funds to be used in cases covered by a court order of desegregation.

I cannot accept personally the fact that the courts throughout this land have ordered local school districts to bus, with the most adverse experiences that our young children have had in those situations, and have it wreck the total educational system.

May I remind you there are 2,000 school districts that are under court order now. As the gentleman from Florida so eloquently stated the case for one of them, they cannot themselves financially bear the cost of busing. The intent of this amendment is not to encourage—and that is a false assumption—it is not to encourage busing; it is not to require busing. The intent is to provide that in the case where there has been court-ordered busing that we can use Federal funds to help those local school districts. You who have local school districts surely know what the intent of this amendment would do.

Mr. Chairman, I appreciate the gentleman yielding.

Mr. STEIGER of Wisconsin. Mr. Chairman, I must say in all honesty I have heard few more thoughtful, rational statements from the statement of the gentleman from Florida.

I cannot help but be impressed by the fact that we can tilt at windmills, as the distinguished gentleman suggested—or

walk up the aisle and down again in an effort to prevent funds from being used for busing, but the end product of our effort will still be busing and the forced use of local funds to pay for what the Federal courts order.

At least the decision to include the Esch amendment would make it possible for the Federal Government to bear a portion of its responsibility for the decisions of the Federal courts. It would not make a local school district suffer because we prevent funds under this act or another act to be used for that purpose. I think it is just that simple.

I must admit that while there are 2,000 districts under court orders, there is an additional 2,000 districts under HEW orders, and it seems to me there is every bit as much reason for the Federal Government to help pay for what its executive branch is doing. I would prefer to see the Esch amendment apply also to orders of HEW. While it does not, the language of the amendment would prevent us from falling completely off the cliff.

I hope the amendment will be adopted.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am delighted to yield to the gentleman from Illinois.

Mr. McCLORY. The gentleman makes a logical argument. I rise in support of the Esch amendment and hope the Esch amendment to the Ashbrook amendment will be adopted.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. Of course, I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. If I correctly understood the gentleman from Michigan, he placed his language immediately after the amendment which I offered separated only by a comma, and it reads, "*Provided, however,* That this prohibition * * *"

Now, I do not interpret that as Federal funds. I interpret that as applying only to the amendment which I offered, and if the gentlemen does not intend that, then may I suggest that it should be placed immediately after the Ashbrook amendment and not after the amendment which I have offered.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am pleased to yield to the gentleman from Michigan for purposes of clarification.

Mr. ESCH. The prohibition applies to section 408 as amended, which in this case starts out—

> No funds appropriated for carrying out any applicable program may be used for the transportation of students—

et cetera. Your amendment amended that, but in all cases the reference to funds would be applicable. Obviously it would be applicable throughout section 408.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The gentleman speaks of "prohibition." There are two prohibitions.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentlewoman from Hawaii is recognized.

Mrs. MINK. Mr. Chairman, I think that most of us have not paid careful attention to the precise language of the Ashbrook amendment. We are debating the issue of busing and neglecting what the language actually provides. It says that "no funds appropriated for the purpose of carrying out any applicable program may be used for transportation," and so forth. The comprehensive amendment offered by the gentleman from Ohio (Mr. ASHBROOK) would cover such programs as the impact program, Public Law 874. Many Members of this House are vitally concerned about funds they receive under Public Law 874. The Ashbrook amendment would cover these funds which are now going into these school districts and which once they are allotted are not identified in any separate way as Federal funds.

If you know anything about the utilization of moneys your receive from the Federal Government under Public Law 874, you know that one of the great advantages of Public Law 874 is that it comes with no restrictions on how it may be spent. It is considered part of the general revenues of your school district. It is applicable for any purpose whatsoever.

The Ashbrook amendment would place limitations upon your school district in the use of those funds. If a school district is under court order and is prohibited by the Ashbrook amendment from the use of Federal funds to comply with the court order, I am sure there are some in this body who would say, "Well, they could use local funds for this purpose. If they do it voluntarily, this is perfectly all right."

May I suggest the Ashbrook amendment amended by the Green amendment would prohibit your school district from using any of your local funds whatsoever even voluntarily for the purpose of complying with the court order, because your local funds will be so commingled with Public Law 874 moneys as to be indistinguishable. There would accordingly be not one single dollar available for compliance with the court order. This is the disaster, I believe, that is thrust upon us by the consideration of an amendment of this kind, which attempts to deal with an emotional issue and which does not attempt to realistically meet the facts of the day.

We know what our courts have said with respect to desegregation of our schools. Nothing we do in this Chamber is going to change that. The gentleman from Florida pointed that out quite eloquently. We all know that we will be facing tonight another amendment known as the Emergency School Desegregation Act. I submit at that time it will be more appropriate to address ourselves to the question of busing. During that debate we could address ourselves to busing which would relate to the matter of providing funds for desegregation. Let us not now, with a general prohibition, complicate all the other Federal programs which this House and this Congress have provided our school districts with—a very comprehensive amendment—which will have the effect in nearly every school district of preventing even voluntary action on the part of the school officials to comply with the intention of our Constitution and the orders of the Supreme Court.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment and amendments thereto close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. SEIBERLING. Mr. Chairman, I object.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I move that all debate on this amendment and amendments thereto end in 10 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentlewoman from Oregon (Mrs. GREEN).

The motion was agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I think we are acting in great haste tonight. We are reversing the clock in this House and turning our backs on the people of this country. We are voting against integration, and we are voting against the welfare of our children, and we are voting to deprive them of funds, and we are voting to deprive them of the future.

Mr. Chairman, I vote against the amendment and urge all Members to do so.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, one-third of a minute is hardly time enough to say anything, but let me say this for those who would be swayed by the gentleman from Florida. I, for one, am not going to give in to a judicial dictatorship. The people who elected me to come up here wanted me to represent their views, not to throw up my hands in despair and say that the Court is all powerful and anything ordered by the Court will not be opposed by me, an elected Representative of the people. The people are the masters of this land and not the nonelected members of the Court. Where I and the people I represent believe the Court has perverted the Constitution by their decision, it is my duty to do all that is legal and within my power as an elected Representative to the U.S. Congress to correct the wrong done by the Court. This included withholding funds which would otherwise be used to carry out the Court order.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I think we are working ourselves into a position where this House is going to look ridiculous no matter which way we vote on these half-baked, ill-considered amendments on school busing. We are

not legislating as a deliberative body should. The chairman of the Judiciary Committee (Mr. CELLER) made a suggestion which gives us a rational way out of this blind alley. He is going to hold hearings before his committee on the whole question of school busing.

We should await the results of those hearings before acting on this very important issue.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. WOLFF).

PRIVILEGED MOTION OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I take my time to send to the desk a privileged motion.

The Clerk read as follows:

Mr. WOLFF of New York moves to strike all after the enacting clause.

The CHAIRMAN pro tempore. The Chair will state that the motion in the form offered is not in order in the Committee of the Whole and it cannot be entertained.

Mr. WOLFF. Mr. Chairman, I move that the Committee strike the enacting clause and report the bill back to the House.

The CHAIRMAN pro tempore. Does the gentleman have his motion in writing at the Clerk's desk?

Mr. WOLFF. I do not.

The CHAIRMAN pro tempore. The Chair will state that the motion is not in order.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I take this time to call attention to the fact that this would be an invitation in every instance in every community to go into court, because by going into court the court could relieve them from all the prohibitions that are contained in the amendment. It would be an invitation to trouble.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I hate to believe that the statement of the gentleman from Florida is correct and that this body has lost its lawmaking authority. If this is true, I would call the attention of my colleagues to the fact that I have a discharge petition at the desk to limit the term of a Federal judge to 10 years, with the right to be renominated and reconfirmed for additional terms. I urge the Members to sign the petition.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I merely want to make one statement. The illusion has been held out that the courts will order busing schemes regardless of what we do here and, therefore, we must provide Federal funds for court-ordered busing. This is not logic. This is sideways thinking. The facts of life are very simple. The more Federal funds we make available, the more busing schemes will be foisted on the American people. The less Federal funds made available for busing, the fewer schemes will be perpetrated. Let us not encourage busing by telling the courts that we will pick up the bill where they order busing for racial reasons. Let us vote down the Esch amendment and adopt the Ashbrook-Green amendment.

The CHAIRMAN pro tempore. The Chair would like to have order in the Chamber.

The gentleman's time has expired.

The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, the question I have is: In view of the Broomfield amendment, which was adopted today, at what point does the Esch amendment apply, after all the remedies have been applied, or with the first court order?

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Michigan.

Mr. ESCH. The Esch amendment would apply after all remedies had been exhausted, and the decision final.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. Mr. Chairman, that is all the time I need to indicate that this body has taken action tonight which engendered the kind of action taken at the United Nations. This has been an evening of national disgrace.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Chairman, I join in regretting the time limitation which confronts us at this time, and the impossibility of dealing with inequities in the Esch amendment. It is impossible to deal through such an amendment with the problem and costs of a district that has integrated and put busing into effect under coercion or direction of HEW and not a court. I believe we have a real problem there, and the Esch amendment does not meet it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Georgia (Mr. BLACKBURN).

Mr. BLACKBURN. Thank you, Mr. Chairman.

Members of the committee, I just want to make one observation. The amendment of the gentleman from Michigan would give notice to the courts that we will endorse anything a court orders in the future and that we will agree to finance it. Gentlemen, I do not believe that is a proper exercise of the legislative function. I urge a vote against the Esch amendment on that basis.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

(By unanimous consent, Mr. BENNETT yielded his time to Mr. ESCH.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, this amendment definitely will do one thing. If you do not have busing in your neighborhood it is going to bring it in. I just want to make it plain. If you want the Esch amendment, to encourage the courts, it will bring it to your neighborhood.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Thank you, Mr. Chairman.

I would say to my colleague from Florida (Mr. BENNETT), I can appreciate the dilemma of the people in Jacksonville, Fla.; but let me say in all sincerity I don't believe the people in my district would want me voting for money that we do not have, for buses we do not need, to send children to schools they should not be attending in the first place.

I say vote the amendment down.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, in view of the shortness of time I should like to ask a parliamentary inquiry of the Chair. Are we working under a time limitation for all amendments to the Ashbrook amendment?

The CHAIRMAN pro tempore. The amendment and all amendments thereto.

Mr. KAZEN. In view of this limitation of time I will not be able to ask the author some questions I have on the main amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. I yield back my time, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Chairman, as I understand this, if you are obeying the law, you have to pay your own way. If you are disobeying the law and are taken to court, then the Government will pay your cost of the busing. If that is the case I will have to vote against the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

(By unanimous consent, Mr. DELLENBACK yielded his time to Mr. ESCH.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, as a member of the Committee on Appropriations, I would say that the result of the Esch amendment is self-explanatory. The more money we appropriate, the more busing you will get; the less money we appropriate, the less busing you will be forced to accept. It is that simple. This amendment does not require busing—agreed. However, by the same token, it does not prevent busing either. Do not be fooled by this "perfecting" amendment; because, while it does not require busing, it does certainly encourage it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. BELL).

Mr. BELL. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Michigan (Mr. ESCH).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. BLACKBURN. Mr. Chairman, I object.

Mr. BELL. Mr. Chairman, I yield to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I appreciate

the gentleman yielding and the courtesy extended to me.

It should be reemphasized that the intent of the amendment is to cover section 408.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, in connection with a national legislature such as we have here, this is an indignity and a shameful reflection on the U.S. House of Representatives.

Mr. Chairman, a series of 20-second speeches—barely a breath and a blurted half sentence—on an issue of momentous importance to the Nation—might be amusing in a musical comedy spoof of the national legislature of the mythical kingdom of Graustark, but today in Washington it is an indignity and a shameful reflection on the U.S. House of Representatives.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. There is no proof that the quality of education has been improved by busing. Therefore I support the Ashbrook-Green amendment without addition of the Esch amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I am afraid, well-meaning as this may be, this amendment is a blank check to the courts to continue and perpetuate some of the mischief that has been brought on our public schools.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman and members of the Committee, I take my 1 minute with some misgivings sensing the mood of the House. Yet I would emphasize that the intent of the amendment as offered was not in any way to require busing but to focus attention on those children who are injured in cases where there has been court-ordered busing.

I would agree with the gentleman from Oklahoma, who makes a valid point that it would be more beneficial to include all, both HEW-required and court-ordered required, school districts.

I would hope the Members of the House will look upon this not as a busing or an antibusing amendment, but rather tonight accept the responsibility of assuming that our children, black and white, in those 2,000 school districts covered by court orders, will receive a proper education.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Chairman, I still think the Esch amendment in effect completely nullifies the amendment I offered.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. ESCH) to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) as amended.

The question was taken; and on a division (demanded by Mr. ESCH) there were—ayes, 95, noes 162.

TELLER VOTE WITH CLERKS

Mr. THOMPSON of New Jersey. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. THOMPSON of New Jersey. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mrs. GREEN of Oregon, Mr. ESCH, Mrs. MINK and Mr. STEIGER of Wisconsin.

The Committee divided, and the tellers reported that there were—ayes 146, noes 216, not voting 69, as follows:

[Roll No. 356]

[Recorded Teller Vote]

AYES—146

Abourezk	Edwards, Calif.	Mink
Abzug	Erlenborn	Mitchell
Adams	Esch	Monagan
Addabbo	Evans, Colo.	Moorhead
Albert	Fascell	Morse
Anderson, Calif.	Fish	Mosher
	Foley	Moss
Anderson, Ill.	Forsythe	Obey
Annunzio	Fraser	O'Neill
Ashley	Frelinghuysen	Patten
Badillo	Frenzel	Pepper
Begich	Gallagher	Pickle
Bell	Grasso	Pike
Bennett	Green, Pa.	Podell
Bergland	Gude	Preyer, N.C.
Biester	Hanna	Price, Ill.
Bingham	Harrington	Quie
Blatnik	Hathaway	Rangel
Boggs	Hechler, W. Va.	Reid, N.Y.
Boland	Heckler, Mass.	Reuss
Bolling	Helstoski	Riegle
Brademas	Hicks, Wash.	Robison, N.Y.
Brasco	Hillis	Rodino
Brooks	Holifield	Roncalio
Burke, Mass.	Jacobs	Rooney, N.Y.
Burton	Jonas	Rosenthal
Byrne, Pa.	Karth	Roush
Carey, N.Y.	Kastenmeier	Roy
Celler	Kazen	Roybal
Chisholm	Kluczynski	Ryan
Clay	Kyl	St Germain
Collins, Ill.	Leggett	Schwengel
Conable	Link	Scott
Conte	Long, Md.	Seiberling
Conyers	McClory	Steiger, Wis.
Corman	McCloskey	Stokes
Coughlin	McCormack	Symington
Daniels, N.J.	McDade	Thompson, N.J.
Danielson	McFall	Thone
de la Garza	McKay	Van Deerlin
Dellenback	Madden	Vanik
Dellums	Mailliard	Veysey
Dent	Matsunaga	Waldie
Donohue	Mayne	Whalen
Dorn	Mazzoli	Wilson, Bob
Dow	Meeds	Wolff
Drinan	Melcher	Wydler
du Pont	Mikva	Yates
Eckhardt	Minish	Zwach

NOES—216

Abbitt	Chamberlain	Ford, Gerald R.
Abernethy	Chappell	Ford, William D.
Alexander	Clancy	
Anderson, Tenn.	Clark	Fountain
	Clausen, Don H.	Fulton, Tenn.
Andrews, Ala.		Fuqua
Andrews, N. Dak.	Clawson, Del	Galifianakis
	Cleveland	Garmatz
Archer	Collier	Gaydos
Arends	Collins, Tex.	Gettys
Ashbrook	Colmer	Giaimo
Baring	Cotter	Gibbons
Betts	Crane	Goldwater
Bevill	Daniel, Va.	Gonzalez
Biaggi	Davis, S.C.	Goodling
Blackburn	Davis, Wis.	Gray
Bow	Delaney	Green, Oreg.
Bray	Denholm	Griffin
Brinkley	Devine	Gross
Broomfield	Dickinson	Grover
Brotzman	Dingell	Hagan
Brown, Mich.	Downing	Haley
Broyhill, N.C.	Dulski	Hall
Buchanan	Duncan	Hammer-schmidt
Burleson, Tex.	Edmondson	
Burlison, Mo.	Edwards, Ala.	Hanley
Byrnes, Wis.	Eilberg	Hansen, Wash.
Byron	Eshleman	Harsha
Caffery	Evins, Tenn.	Harvey
Camp	Fisher	Hastings
Carter	Flood	Hawkins
Casey, Tex.	Flowers	Hays
Cederberg	Flynt	Heinz
Henderson	Montgomery	Schneebeli
Hicks, Mass.	Morgan	Shipley
Hogan	Murphy, Ill.	Shoup
Horton	Murphy, N.Y.	Shriver
Hull	Myers	Sikes
Hungate	Natcher	Slack
Hunt	Nedzi	Smith, Iowa
Hutchinson	Nelsen	Snyder
Ichord	Nichols	Spence
Johnson, Pa.	Nix	Springer
Jones, Ala.	O'Hara	Stanton, James V.
Jones, N.C.	O'Konski	
Keating	Passman	Steed
Keith	Pelly	Steele
Kemp	Perkins	Steiger, Ariz.
King	Pettis	Stratton
Kuykendall	Peyser	Stubblefield
Kyros	Poff	Sullivan
Landgrebe	Powell	Talcott
Landrum	Price, Tex.	Teague, Calif.
Latta	Pryor, Ark.	Terry
Lennon	Pucinski	Thompson, Ga.
Lent	Purcell	Thomson, Wis.
McCollister	Quillen	Tiernan
McDonald, Mich.	Randall	Ullman
	Rarick	Vander Jagt
McEwen	Rhodes	Vigorito
McKevitt	Robinson, Va.	Waggonner
McKinney	Roe	Wampler
McMillan	Rogers	Ware
Macdonald, Mass.	Rooney, Pa.	Whalley
	Rostenkowski	Whitehurst
Mahon	Rousselot	Whitten
Mann	Runnels	Widnall
Mathias, Calif.	Ruth	Williams
Mathis, Ga.	Sandman	Winn
Michel	Sarbanes	Wyman
Miller, Ohio	Satterfield	Yatron
Mills, Md.	Saylor	Young, Fla.
Minshall	Scherle	Young, Tex.
Mizell	Scheuer	Zablocki
Mollohan	Schmitz	

NOT VOTING—69

Aspin	Hamilton	Roberts
Aspinall	Hansen, Idaho	Ruppe
Baker	Hébert	Sebelius
Barrett	Hosmer	Sisk
Belcher	Howard	Skubitz
Blanton	Jarman	Smith, Calif.
Brown, Ohio	Johnson, Calif.	Smith, N.Y.
Broyhill, Va.	Jones, Tenn.	Staggers
Burke, Fla.	Kee	Stanton, J. William
Cabell	Koch	
Carney	Lloyd	Stephens
Culver	Long, La.	Stuckey
Davis, Ga.	Lujan	Taylor
Dennis	McClure	Teague, Tex.
Derwinski	McCulloch	Udall
Diggs	Martin	White
Dowdy	Metcalfe	Wiggins
Dwyer	Miller, Calif.	Wilson, Charles H.
Edwards, La.	Mills, Ark.	
Findley	Patman	Wright
Frey	Pirnie	Wyatt
Griffiths	Poage	Wylie
Gubser	Railsback	Zion
Halpern	Rees	

So the amendment to the amendment was rejected.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) as amended.

TELLER VOTE WITH CLERKS

Mr. ASHBROOK. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ASHBROOK. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Messrs. ASHBROOK, QUIE, and REID of New York and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 234, noes 124, not voting 73, as follows:

[Roll No. 357]

[Recorded Teller Vote]

AYES—234

Abbitt	Archer	Biester
Abernethy	Arends	Blackburn
Alexander	Ashbrook	Bow
Anderson, Tenn.	Baring	Bray
	Bennett	Brinkley
Andrews, Ala.	Betts	Brooks
Andrews, N. Dak.	Bevill	Broomfield
	Biaggi	Brotzman

Brown, Mich.	Hammer-	Preyer, N.C.
Broyhill, N.C.	schmidt	Price, Tex.
Buchanan	Hansen, Wash.	Pryor, Ark.
Burleson, Tex.	Harsha	Pucinski
Burlison, Mo.	Harvey	Purcell
Byrnes, Wis.	Hastings	Quillen
Byron	Hays	Randall
Caffery	Heinz	Rarick
Camp	Henderson	Rhodes
Carter	Hicks, Mass.	Robinson, Va.
Casey, Tex.	Hillis	Roe
Cederberg	Hogan	Rogers
Chamberlain	Horton	Rooney, Pa.
Chappell	Hull	Roush
Clancy	Hungate	Rousselot
Clark	Hunt	Roy
Clausen,	Hutchinson	Runnels
Don H.	Ichord	Ruth
Clawson, Del	Jacobs	St Germain
Cleveland	Johnson, Pa.	Sandman
Collier	Jonas	Sarbanes
Collins, Tex.	Jones, Ala.	Satterfield
Colmer	Jones, N.C.	Saylor
Conable	Keating	Scherle
Cotter	Keith	Schmitz
Coughlin	Kemp	Schneebeli
Crane	King	Schwengel
Daniel, Va.	Kluczynski	Scott
Davis, S.C.	Kuykendall	Shipley
Davis, Wis.	Kyl	Shoup
Delaney	Landgrebe	Shriver
Devine	Landrum	Sikes
Dickinson	Latta	Slack
Dingell	Lennon	Smith, Calif.
Downing	Lent	Snyder
Dulski	Long, Md.	Spence
Duncan	McCollister	Springer
du Pont	McDade	Stanton,
Edmondson	McDonald,	James V.
Edwards, Ala.	Mich.	Steed
Eilberg	McEwen	Steele
Esch	McKevitt	Steiger, Ariz.
Eshleman	McKinney	Stratton
Evins, Tenn.	McMillan	Stubblefield
Fish	Macdonald,	Sullivan
Fisher	Mass.	Talcott
Flood	Mahon	Teague, Calif.
Flowers	Mann	Terry
Flynt	Mathias, Calif.	Thompson, Ga.
Ford, Gerald R.	Mathis, Ga.	Thomson, Wis.
Ford,	Mazzoli	Thone
William D.	Michel	Tiernan
Forsythe	Miller, Ohio	Ullman
Fountain	Mills, Md.	Vander Jagt
Frelinghuysen	Minshall	Vanik
Fulton, Tenn.	Mizell	Veysey
Fuqua	Mollohan	Vigorito
Galifianakis	Montgomery	Waggonner
Garmatz	Myers	Wampler
Gaydos	Natcher	Ware
Gettys	Nedzi	Whalley
Giaimo	Nelsen	Whitehurst
Gibbons	Nichols	Whitten
Goldwater	O'Hara	Widnall
Goodling	O'Konski	Williams
Grasso	Passman	Winn
Green, Oreg.	Pelly	Wydler
Griffin	Pettis	Wyman
Gross	Peyser	Yatron
Grover	Pickle	Young, Fla.
Hagan	Pike	Young, Tex.
Haley	Poff	Zablocki
Hall	Powell	

NOES—124

Abourezk	Conyers	Heckler, Mass.
Abzug	Corman	Helstoski
Adams	Daniels, N.J.	Hicks, Wash.
Addabbo	Danielson	Holifield
Albert	de la Garza	Karth
Anderson,	Dellenback	Kastenmeier
Calif.	Dellums	Kazen
Anderson, Ill.	Denholm	Kyros
Annunzio	Dent	Leggett
Ashley	Donohue	Link
Badillo	Dorn	McClory
Begich	Dow	McCloskey
Bell	Drinan	McCormack
Bergland	Eckhardt	McFall
Bingham	Edwards, Calif.	McKay
Blatnik	Erlenborn	Madden
Boggs	Evans, Colo.	Matsunaga
Boland	Fascell	Mayne
Bolling	Foley	Meeds
Brademas	Fraser	Melcher
Brasco	Frenzel	Mikva
Burke, Mass.	Gonzalez	Minish
Burton	Green, Pa.	Mink
Byrne, Pa.	Gude	Mitchell
Carey, N.Y.	Hanley	Monagan
Celler	Hanna	Moorhead
Chisholm	Harrington	Morgan
Clay	Hathaway	Morse
Collins, Ill.	Hawkins	Mosher
Conte	Hechler, W. Va.	Moss
Murphy, Ill.	Reid, N.Y.	Smith, Iowa
Murphy, N.Y.	Reuss	Steiger, Wis.
Nix	Riegle	Stokes
Obey	Robison, N.Y.	Symington
O'Neill	Rodino	Thompson, N.J.
Patten	Roncalio	Van Deerlin
Pepper	Rooney, N.Y.	Waldie
Perkins	Rosenthal	Whalen
Podell	Rostenkowski	Wolff
Price, Ill.	Roybal	Yates
Quie	Ryan	Zwach
Rangel	Seiberling	

NOT VOTING—73

Aspin	Halpern	Rees
Aspinall	Hamilton	Roberts
Baker	Hansen, Idaho	Ruppe
Barrett	Hébert	Scheuer
Belcher	Hosmer	Sebelius
Blanton	Howard	Sisk
Brown, Ohio	Jarman	Skubitz
Broyhill, Va.	Johnson, Calif.	Smith, N.Y.
Burke, Fla.	Jones, Tenn.	Staggers
Cabell	Kee	Stanton,
Carney	Koch	J. William
Culver	Lloyd	Stephens
Davis, Ga.	Long, La.	Stuckey
Dennis	Lujan	Taylor
Derwinski	McClure	Teague, Tex.
Diggs	McCulloch	Udall
Dowdy	Mailliard	White
Dwyer	Martin	Wiggins
Edwards, La.	Metcalfe	Wilson, Bob
Findley	Miller, Calif.	Wilson,
Frey	Mills, Ark.	Charles H.
Gallagher	Patman	Wright
Gray	Pirnie	Wyatt
Griffiths	Poage	Wylie
Gubser	Railsback	Zion

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHAPPELL: Page 28, after line 4, insert the following as section 2005:

All data, statistics, or other information required by the Secretary to make determinations with respect to entitlements to any moneys under the Elementary and Secondary grants shall be obtained by him from the appropriate State educational agency. The Secretary shall require such State educational agency to provide only such data, statistics, or other information to him as is or are essential to enable him to carry out his duties under this Act.

And renumber the following section.

Mr. CHAPPELL. Mr. Chairman, the purpose of this amendment is simply to require the Secretary to go to the State agency rather than to the local school district for the information which is necessary to support the various applications for moneys under the elementary and secondary school grants and to require of such State agency only pertinent information.

The need for this legislation come to the attention of the Florida delegation through the Florida State agency which requested it. because the local school boards are not and the State agencies are properly equipped to efficiently furnish the tremendous volume of information required by HEW to support applications for funds. Further HEW has been requesting much information not pertinent to the applications. I urge its adoption.

Mrs. GREEN of Oregon. Will the gentleman yield?

Mr. CHAPPELL. I am glad to yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I cannot speak for everybody on the other side, but I personally see nothing wrong with the amendment. I am willing to accept it. It simply says we go to the State agency to get the material.

Mr. CHAPPELL. Thank you very much.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. CHAPPELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PUCINSKI

Mr. PUCINSKI. Mr. Chairman, we are at the conclusion of title XX, and I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PUCINSKI: On page 282 after line 3 insert a new Title XXI as follows:

"TITLE XXI—EMERGENCY SCHOOL AID

"SEC. 2101. This title may be cited as the 'Emergency School Aid Act of 1971'.

PURPOSE AND POLICY

"SEC. 2102. (a) The purpose of this title is to provide financial assistance—

"(1) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

"(2) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

"(b) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

"APPROPRIATIONS

"SEC. 2103. (a) There are authorized to be appropriated for carrying out this title not in excess of $500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $1,000,000,000 for the succeeding fiscal year.

"(b) Funds appropriated under subsection (a) shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

"(c) From the sums appropriated under subsection (a) for each fiscal year there shall be reserved to the Secretary an amount equal to not less than 4 per centum of the sums so appropriated for the purpose of carrying out bilingual education programs in accordance with section 2105 (e).

"ALLOTMENTS AMONG STATES

"SEC. 2104. (a) From the sums appropriated pursuant to section 2103 (a) for carrying out this title for any fiscal year, the Secretary shall allot an amount equal to 90 per centum among the States by allotting to each State $100,000 plus an amount which bears the same ratio to the balance of such 90 per centum of such sums as the aggregate number of children aged five to seventeen, inclusive, in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups (such as Orientals, Alaskan natives, and Hawaiian natives) as determined by the Secretary, bears to the aggregate number of such children in all of the States. The remainder of such sums (other than sums reserved under section 2103(c) may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 2106 and in accordance with the other provisions of this title) for grants or contracts to carry out the purpose of this title stated in section 2102(a). The number of such children shall be determined by the Secretary on the basis of the

most recent available data satisfactory to him.

"(b)(1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

"(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 2106, 2107, and 2108, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title stated in section 2102(a) that their approval is not warranted.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

"SEC. 2105. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with this title to a local educational agency—

"(1) which is implementing a plan—

"(A) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of racially segregated students of faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

"(B) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools;

"(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of racial isolation in all the racially isolated schools in the school district of such agency;

"(3) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan—

"(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

"(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), who are in racially isolated schools in such district, or

"(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children;

"(4) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing racial isolation in one or more of the school districts to which such plan relates; or

"(5) which, upon a determination by the Secretary—

"(A) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), and

"(B) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b),

"has established or will establish one or more stable, quality, integrated schools. For the purposes of this paragraph, an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Secretary determines that the number of children who are not in groups described in clause (A) constitutes that proportion of the enrollment which will achieve stability, in no event more than 70 per centum thereof, and (ii) a faculty which is representative of persons who are Negroes, American Indians, or Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary under section 2104(a) and persons who are not members of such groups in the population of the larger community in which it is located, or, whenever the Secretary determines that the local educational agency concerned is attempting to increase the proportions of racial minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the racial minority group and nonminority group faculty employed by the local educational agency.

"(b) The Secretary is authorized to make grants to local educational agencies, which are eligible under subsection (a)(5), for unusually promising pilot programs or projects designed to overcome the adverse effects or racial isolation by improving the academic achievement of children in one or more racially isolated schools, if he determines that the local educational agency had a number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a) enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which is at least 15,000.

"(c) In cases in which the Secretary finds that it would effectively carry out the purpose of this title stated in section 2102(a), he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan or activity described in subsection (a).

"(d)(1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

"(A) transfered (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determiantion by such agency that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in deesgregated public schools, and (ii) does not otherwise practice discrimination on the basis of race, color, or national origin in the operation of any school activity;

"(B) had in effect any practice, policy, or procedure which results in this disproportionate demotion or dismissal of instructional or other personnel from racial minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

"(C) in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of racial minority group from nonminority group children;

"(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of racial minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

"except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

"(2) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

"(3) All determinations and waivers pursuant to this subsection shall be in writing.

"(e)(1) The Secretary shall carry out a program to meet the needs of children who are from an environment in which the dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 2103(C) the Secretary is authorized to make grants to and contracts with—

"(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under this section, designed to meet the special educational needs of children who are from environments in which the dominant language is other than English for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the groups of which such children are members;

"(B) local educational agencies eligible for assistance under this section for the purpose of engaging in such activities;

"(C) local educational agencies eligible for assistance under this section for the pur-

pose of carrying out activities authorized under section 2106 of this title to implement curricula developed under clause (A) or (B) or curricula otherwise developed which the Secretary determines meets the needs described in clause (A).

In making grants and contracts under this paragraph, the Secretary shall assure that sufficient funds from the amount reserved pursuant to section 2103(c) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Secretary determines meet the needs described in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary education personnel.

"(2)(A) In order to be eligible for a grant or contract under this subsection—

"(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

"(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

"(B) A program or project committee or board established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the group, the educational needs of which the program or project is intended to meet.

"(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under this section. The Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

"AUTHORIZED ACTIVITIES

"SEC. 2106. Financial assistance under this title shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 2102(a), including—

"(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 2105 or a program described in section 2109(2), when such services are deemed necessary to the success of such plan, activity, or program;

"(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

"(3) comprehensive guidance, counseling, and other personal services for such children;

"(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

"(5) educational programs using shared facilities for career education and other specialized activities;

"(6) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

"(7) repair of minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities:

"(8) community activities, including public education efforts, in support of a plan or activity described in section 2105 or a program described in secton 2109(2);

"(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan or activity described in section 2105 or a program described in section 2109(2);

"(10) planning and evaluation activities; and

"(11) other specially designed programs or projects which meet the purpose of this title stated in section 2102(a).

"CRITERIA FOR APPROVAL

"SEC. 2107. (a) In approving applications submitted under this title (except for those submitted under section 2105(e) and 2109 (2)), the Secretary shall apply only the following criteria:

"(1) the need for assistance, taking into account such factors as—

"(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

"(B) the financial need of such school district as compared to other school districts in the State.

"(C) the expense and difficulty of effectively carrying out a plan or activity described in section 2105 in such school district as compared to other school districts in the State, and

"(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

"(2) the degree to which the plan or activity described in section 2105, and the program or project to be assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 2105 (a)(3)(C), the degree to which the plan and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this title);

"(3) the extent to which the plan or activity described in section 2105 constitutes a comprehensive district-wide approach to the elimination of racial isolation, to the maximum extent practicable, in the schools of such school district;

"(4) the degree to which the program or project to be assisted affords promise of achieving the purpose of this title stated in section 2102(a);

"(5) that (except in the case of an application submitted under section 2109(1)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

"(6) the degree to which the plan or activity described in section 2105 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

"(b) The Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

"ASSURANCES

"SEC. 2108. (a) An application submitted for approval under this title shall contain such information as the Secretary may prescribe and shall contain assurances that—

"(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

"(2) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this title as the Secretary may require for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

"(3) the applicant will provide such other information as the Secretary may require to carry out the purpose of this title stated in section 2102(a);

"(4) the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made; and

"(5) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a racial minority group, except that no assignment pursuant to a court order or a plan approved under title VI of the Civil Rights Act of 1964, or otherwise adopted under section 2105, will be considered as being in violation of this subsection.

"(b) An application for assistance under this title submitted by a local educational agency shall, in additon to meeting the requirements of subsection (a), contain satisfactory assurances that—

"(1) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 2102(a) or, in the case of an application under section 2105(e), would assist in meeting the needs described in paragraph (1)(A) of that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

"(2) such agency has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

"(3) the current expenditure per pupil (as defined in section 2111(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this title will be made avail-

able to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan or activity described in section 2105 or in section 2109(2) was commenced, or (B) the third academic year preceding the academic year for which such assistance will be made available, whichever, is later;

"(4) the plan with respect to which such agency is seeking assistance (as specified in section 2105(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

"(5) for each academic year for which assistance is made available to the applicant under this title, such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner of Education;

"(6) such agency will not institute or have in effect any practice, policy, or procedure prohibited by clause (B), (C), or (D) of section 2105(d)(1);

"(7) such agency will not engage in a transaction described in clause (A) of section 2105(d)(1); and

"(8) such agency will carry out, and comply with, all provisions, terms, and conditions of any plan or activity as described in section 2105 or section 2109(2) upon which a determination of its eligibility for assistance under this title is based.

"(c) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency a reasonable time to modify its application.

"(d) The Secretary may, from time to time, set dates by which applications shall be filed.

"(e) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be an agency described in section 2105(a) or (e) or section 2109 and any one or more of such agencies joining in such application may be authorized to administer such program or project.

"SPECIAL PROGRAMS

"SEC. 2109. From the funds available to him under the second sentence of section 2104(a) the Secretary is authorized to make grants—

"(1) to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this title stated in section 2102(a) if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary or secondary schools; and

"(2) to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English and who, (A) as a result of limited English-speaking ability, are educationally deprived, (B) have needs similar to the needs of other children participating in programs or projects assisted under this title, and (C) attend a school in which they constitute more than 50 per centum of the enrollment.

"PAYMENTS

"SEC. 2110. (a) Upon his approval of an application for assistance under this Act, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor the amount fixed for such application.

"(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 2108(b), the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 2102(a) or in the case of an application under section 2105(e) would assist in meeting the needs described in paragraph (1)(A). The service to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 2105(e), from the funds reserved under section 2103(c), or in case of an application under section 2109, from the sums available to the Secretary under the second sentence of section 2104(a).

"(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

"(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 2108(b), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

"(d) After making a grant or contract under this title, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

"(e) The amount of financial assistance to a local educational agency under this title may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by him, to be the result of the implementation of a plan or activity described in section 2105(a), (b), or (e), or of the operation of a program under section 2109(2).

"DEFINITIONS

"SEC. 2111. As used in this title, except when otherwise specified—

"(a) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditures made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

"(b) The term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

"(c) The term 'gifted and talented children' means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

"(d) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

"(e) The term 'nonprofit' as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(f) The terms 'racially isolated school' and 'racial isolation' in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary under section 2104(a), constitute more than 50 per centum of the enrollment of a school.

"(g) The terms 'elementary and secondary school' and 'school' mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(h) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(i) The term 'State educational agency' means the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

"(j) The term 'State' means one of the fifty States or the District of Columbia, and for purposes of section 2109, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

"EVALUATION

"SEC. 2112. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under the second sentence of section 2104(a) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

"JOINT FUNDING

"SEC. 2113. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this title, any one Federal agency may be designated to act for all in administering the funds advanced.

"NATIONAL ADVISORY COUNCIL

"SEC. 2114. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representatives of racial minority groups, appointed by the President, which shall—

"(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the implementation of the criteria for the approval of applications;

"(2) review the operation of the program (A) with respect to its effectiveness in achieving the purpose stated in section 2102(a), and (B) with respect to the Secretary's conduct in the administration of the program;

"(3) meet not less than four times in the period during which the program is authorized and submit through the Secretary to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

"(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

"(b) The Commissioner shall submit an estimate under the authority of section 401 (c) and part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

"REPORTS

"SEC. 2115. The Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed 'Emergency School Assistance' in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 2102(a). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than two times annually.

"GENERAL PROVISIONS

"SEC. 2116. (a) The provisions of parts B and C of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

"(b) Section 422 of such General Education Provisions Act is amended by inserting 'the Emergency School Aid Act of 1971;' after 'the International Education Act of 1966,'.

"PROHIBITION AGAINST BUSING

"SEC. 2117. No funds appropriated pursuant to this title may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

"NEIGHBORHOOD SCHOOLS

"SEC. 2118. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially non-discriminatory basis to adopt any other method of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools of such agency."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I believe this amendment has been available for every Member of the House, and in the interest of saving time I ask unanimous consent that it be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. QUIE. Mr. Chairman, reserving the right to object, I ask a question of the gentleman from Illinois.

Did he have his amendment printed in the RECORD?

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. PUCINSKI. The amendment is printed in the RECORD on page H10293 of this morning's edition of the CONGRESSIONAL RECORD.

Mr. QUIE. Mr. Chairman, I withdraw my reservation of objection.

Mr. GROSS. Mr. Chairman, further reserving the right to object, is this amendment the gentleman offers the bill that the House defeated by a substantial majority on Monday of this week?

Mr. PUCINSKI. This is an amendment to the Higher Education Act. It is title XXI with some major changes.

Mr. GROSS. With major changes?

Mr. PUCINSKI. Yes.

Mr. GROSS. How many and what major changes?

Mr. PUCINSKI. I will be very happy to discuss that when I am recognized under my regular order.

Mr. GROSS. Under your regular order? I did not think the House had gotten a special order yet.

Mr. PUCINSKI. We are proceeding in the regular order, and I will answer the gentleman's question at the proper time.

Mr. GROSS. And the gentleman will explain this to the third shift when it comes on at midnight?

Mr. PUCINSKI. I will explain it to the people who are here when I am recognized in regular order. The gentleman has posed a question.

Mr. GROSS. How many amendments does the gentleman have?

Mr. PUCINSKI. I do not have any amendments. The amendment pending at the desk is a complete amendment as far as this Member is concerned.

Mr. GROSS. One amendment?

Mr. PUCINSKI. Yes.

Mr. GROSS. Embodying some extractions from Monday's operation and some additions. Is that correct?

Mr. PUCINSKI. That is correct.

Mr. GROSS. I wonder how we are supposed to know without it having been read what the amendment contains.

Mr. PUCINSKI. I know the gentleman is an avid reader of the CONGRESSIONAL RECORD and the wisest Member in the Chamber. I know he has read the RECORD, and it is in the CONGRESSIONAL RECORD.

Mr. WAGGONNER. Will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Louisiana.

Mr. WAGGONNER. Let us try to clarify what the amendment is. We have been here too long to start refusing to answer questions. The gentleman is entitled to know what changes have been made since the bill was voted on under suspension on Monday.

There have been five basic changes made. The purpose and findings have been changed to coincide more nearly with the purposes of the bill. Initially, on page 25 of the bill, that language having to do with appropriations, objected to by the gentleman from Texas (Mr. MAHON), the chairman of the House Committee on Appropriations, and Mr. BOW, the ranking minority member, has been removed from the bill.

Additional language has been removed in the final section of the bill having to do with paying attorneys' fees and court costs in the instance of the side which prevails, and two amendments which add a total prohibition against busing and a neighborhood school amendment.

That constitutes the bulk of the change almost entirely as contrasted to the provisions of the bill which was voted on under suspension on Monday.

Mr. GROSS. Mr. Chairman, with that information I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. BOLAND). Is there objection to the request of the gentlewoman from Oregon?

Mr. COLMER. Mr. Chairman, reserving the right to object, I understand that this amendment, if this unanimous-consent request is granted, will be in order. My inquiry is whether in connection with this reservation at what point would a point of order be proper to raise?

The CHAIRMAN pro tempore. The Chair will respond to the gentleman from Mississippi by stating that if the pending unanimous-consent request is agreed to and the gentleman from Mississippi then raises a point of order, the Chair will entertain that point of order and consider it.

Mr. COLMER. I thought I misunderstood the Chair.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentlewoman from Oregon that the amendment be considered as read?

Mr. CLAY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk proceeded to read.

PARLIAMENTARY INQUIRY

Mr. PUCINSKI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PUCINSKI. Is it in order to point out that this bill has been read once before and it took about 18 minutes?

The CHAIRMAN pro tempore. The Chair will state to the gentleman that that is not a parliamentary inquiry.

Mr. PUCINSKI. I thank the Chair.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk proceeded to read.

Mr. PUCINSKI. Mr. Chairman, I renew the unanimous-consent request that the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. CLAY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk proceeded to read.

Mr. WILLIAM D. FORD. Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentleman from Michigan?

There was no objection.

POINT OF ORDER BY MR. COLMER

Mr. COLMER. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. COLMER. Mr. Chairman, in the interest of time, I shall read a statement here with reference to this point of order.

Mr. Chairman, the $1.5 billion secondary education bill now offered in the form of an amendment is not germane under the wildest scheme of consideration that has come up in my recollection.

Mr. Chairman, the germaneness provision is covered in the House Manual under rule XVI, clause 7, and the Manual states that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

Now, I do not have the bill before me, but I think I can quote them. The title of the bill under consideration is the higher education bill. The bill that is offered as an amendment, and which I contend is not germane, deals with elementary education and the integration question.

The fundamental purpose of H.R. 7248, known as the Higher Education Act of 1971, is "to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education." I think it would be a travesty upon parliamentary justice to rule that this amendment, which is H.R. 2266, with some minor amendments, would be in order as an amendment to the Higher Education bill when its fundamental purpose is "to assist school districts to meet special problems incident to desegregation and to the elimination, reduction, or prevention of racial isolation, in elementary and secondary schools."

The fundamental purpose of the measure before us, the higher education bill, is to amend and extend, as I said, the Higher Education Act of 1965, but the fundamental purpose of the proposed amendment, for a $1.5 billion bill itself, is to further desegregate the elementary and secondary schools of the Nation.

The rules could not be plainer. I just cannot see how under any stretch of the imagination this amendment could be considered as germane.

In Cannon's Precedents, Mr. Chairman, we find "the rule providing"—and I hope the Chair will particularly follow this—"that amendments must be germane has been construed as requiring that the fundamental purpose of an amendment be germane to the fundamental purpose of the bill to which it is offered."

The fundamental purpose of the amendment is for elementary schools. The fundamental purpose of the bill which is sought to be amended is for higher education.

It would be absurd, Mr. Chairman, to say that the fundamental purpose of the desegregation bill for secondary schools is germane to the fundamental purpose of the higher education bill. The very purpose of the germane rule in the House is to separate such issues.

Further in support of this point of order, Mr. Chairman, I cite Hinds' Precedents, V–6929, and I quote:

> The principle of germaneness relates to a proposition by which it is proposed to modify some pending bill, and not a portion of the bill itself.

As will be argued here.

Even though the words "and for other purposes" which incidentally are not in the title of the higher education bill—they are supposed to be there to show the nature of the measure.

Even so, the words "for other purposes" are used to embrace subjects outside of the main subjects to which the bill relates and which are reported by the committee itself.

It is clear that fringe subjects have no bearing, as it is the main thrust of the bill that counts.

I call the attention of the Chair that earlier in the evening in ruling on the so-called Whitten amendment, the Chair held that the Whitten amendment was not germane because it dealt with the question of money and segregation and was not embraced in the bill.

Finally, Mr. Chairman, I refer to another ruling in Cannon's Precedents which says that—

> An amendment proposing to add an individual proposition to a bill embodying another individual proposition is not admissible even though the two propositions belong to the same class.

It is clear that although some may claim that both of these bills could be generally considered as being in the education field, each is a separate proposition in the main and the point of order, I insist, should be upheld in accordance with the rules and precedents of the House.

Mr. Chairman, I have a number of other precedents here, but I shall not take the time of the Chair and of the Members of the House.

Mr. Chairman, my purpose in making this point of order is to try to preserve the sanctity of the rules of this House. I do not think this is a question, and I am sure the Chair shares that view, that should be decided upon a question of convenience or expediency, but it should be decided in accordance with the precedents of the House of Representatives which clearly make the amendment not germane.

The CHAIRMAN. Does the gentleman from Illinois (Mr. PUCINSKI) desire to be heard upon the point of order?

Mr. PUCINSKI. Yes, Mr. Chairman, I wish to speak in opposition to the point of order.

Mr. Chairman, the title of H.R. 7248 notwithstanding, the totality of this bill is concerned with higher education and as it relates to elementary and secondary education.

The title of this bill is not controlling, but rather the subject matter of the bill.

There are numerous provisions throughout this bill dealing with elementary and secondary acts, many of them have been amended in the titles that have already been accepted.

We have accepted some changes in the Vocational and Education Act, ESEA, extensions of title III and NDEA and, finally, the Ashbrook amendment that was just adopted by an overwhelming vote dealt with a number of amendments or a number of educational bills which have been amended by the Ashbrook amendment as well as by the previous amendments adopted by the House during the consideration of this legislation.

Therefore, Mr. Chairman, it is my contention that the nature of this bill, and all the preceding titles that have already been adopted dealing with elementary and secondary education—this amendment that is now pending affects the elementary and secondary education as well as higher education. So in my judgment the amendment I have offered which is pending before the House at this time is proper and is in order and I request that the point of order against it be overruled.

The CHAIRMAN pro tempore (Mr. BOLAND). Does the gentleman from North Carolina desire to be heard on the point of order?

Mr. RUTH. Mr. Chairman, I do. I realize the germaneness of a bill is a technical point. But in case the Chair is in doubt, I would like to review the situation because it may have some bearing on the Chair's decision. And I hope you have not reached one.

I would like to remind this body of some very strange things that happened in the Education and Labor Committee. As a member of the subcommittee which

handled the desegregation bill or the Emergency Education Act, I think this body should be informed that the bill was finished in the subcommittee several days ago before the higher education bill and, as we expected it to come before the full committee, like an act from Heaven, we got the word from our chairman that the Democratic caucus had said that the higher education bill must precede the desegregation bill. There was not much to do but to accept this, and so we did.

Then, lo and behold, the Rules Committee came forward and said:

We have now passed a rule on the higher education bill and we are not passing any more rules; so the desegregation bill cannot have a rule.

That was a little alarming to this Member who has been here but 3 years, and I would feel remiss if I did not inform you people and the Chair what transpired.

When our bill went to the full committee and was pushed back while the higher education bill came up, I did not get too suspicious, but then when the Rules Committee said that we could not have a rule, even the gentleman from North Carolina, from the South, began to get a little suspicious. And when the chairman of the Rules Committee tonight decided that this route which we were taking was not germane, I was not a bit surprised.

I would like to say that in all fairness, because of the strange ways in which things have happened—and it was not the intention of anybody who was for this bill or on the subcommittee to bring it up under suspension of the rules, but it was the only opportunity that we had—under suspension of the rules, it got the name of a busing bill. It got the name so firmly that even this Member voted against it.

We have now made it clear that this is not a busing bill. It is a desegregation bill. And if there ever was a dollar of Federal funds spent in secondary or elementary education, this is the most appropriate, because these are expenditures which the people in your school district need because of acts which we passed which forced desegregation on them, and if you are in contact with any of your school superintendents, I will assure you that they need this money.

I would like to conclude, Mr. Chairman, by stating again that this humble Member realizes that this is a technical situation, but I do hope you will consider what I have said.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. RUTH. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I wish to commend my colleague for calling these facts to the attention of the House, and merely add that every conceivable wrecking device has been used to keep this bill from the floor.

Mr. RUTH. I think I made that clear, and it is certainly a pleasure to be on the same side as the gentleman from Illinois.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is prepared to rule. The Chair appreciates the counsel of all Members who have addressed themselves to the point of order.

The gentleman from Mississippi (Mr. COLMER) has raised a point of order against the amendment offered by the gentleman from Illinois (Mr. PUCINSKI) on the ground that the amendment is not germane to the bill under consideration. With reference to the remarks of the gentleman from Mississippi concerning the Chair's earlier ruling on the substitute amendment offered by the gentleman from Mississippi (Mr. WHITTEN) the Chair states that that ruling was on the germaneness of the substitute amendment to the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) and not to its germaneness to the bill.

The Chair is aware, as pointed out in the discussion on this point of order, that the title of the pending bill is "to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education;" but the title of a bill is not determinative of its scope, and the text of this bill, as amended and perfected by the Committee of the Whole, goes beyond the single subject matter of higher education.

The bill includes title X on discrimination in educational programs. This title reaches beyond higher education and is applicable to all educational programs, including elementary and secondary.

The bill also includes a title on youth camp safety, another matter not specifically related to higher education.

There is also title XIV, relating to the evaluation of Federal education programs, which relates as well to programs in the field of elementary and secondary education as it does to higher education.

The Chair would also point out that the Elementary and Secondary Education Act of 1965 is amended in several respects by the pending committee amendment in the nature of a substitute.

Where a bill contains so many diverse topics, the addition of other topics within the same general category may be germane. Here the general subject matter is education. The amendment deals with that subject. The Chair, therefore, holds the amendment germane and overrules the point of order.

The Chairman recognizes the gentleman from Illinois (Mr. PUCINSKI) for 5 minutes in support of his amendment.

Mr. PUCINSKI. Mr. Chairman, this amendment before us now is almost identical to the bill this House had passed by a 2-to-1 majority last December, when we had a similar bill here, except that this bill does not have the so-called William Ford amendment to which the gentleman from Texas (Mr. MAHON) had objected, because it placed certain limitations on the Appropriations Committee.

This bill today, however, differs substantially from the measure presented to the House last Monday, in that this amendment does not have legal fees that were in the bill Monday, but it does have an antibusing amendment suggested by the President, and it also has a definition of neighborhood schools, which we hope will be at least some guideline for courts in ascertaining what the legislative intent is on the neighborhood school situation.

I am not going to belabor the subject of busing any more, because I am sure that has been discussed adequately here.

This is a good bill which was carefully drawn by our subcommittee to meet the needs of schools which are now facing in many instances enormous problems of integration, schools that are under court orders or are in changing communities or changing neighborhoods. There are enormous problems in many of our schools.

This bill attempts to deal with those problems by giving administrators and teachers and principals of schools the money to help deal with the problems. That is why I was not particularly disturbed that we passed an antibusing amendment. I supported the antibusing amendment because this is not a transportation bill. This bill is designed to help school administrators deal with probably the most serious problem in American education in the history of American education.

I want to stress, however, Mr. Chairman, that no school can be compelled to participate in this program nor can any school be forced to integrate under this bill. This legislation is designed to help those schools forced to integrate because of court order or some other compulsion.

But I want to make crystal clear that this bill specifically provides nothing in this measure that can be construed to require a school to bus either students or teachers to overcome racial imbalance.

But in those schools forced to integrate by a court order, we see problems sweeping the country north, south, east, and west. This is the first time we have tried to come forward with a bill that will give the people some opportunity to try to cope with the problem.

It is tragic that this bill has had such a tough course. I do not like to bring this bill up at midnight tonight, but that is the only opportunity we have. We tried. We have been forced to go through the process of reading this bill over and over in our subcommittee, because of parliamentary demands by some members who have tried to impede the progress of this bill. As I say, every wrecking device imaginable was used to keep this bill from coming to the floor.

We have the busing question out of the way. Any effort to use this bill for busing is dead. We can now take a look at this bill on its merits. This bill is designed to help school administrators hire additional teachers they need as well as counseling and guidance and remedial education programs.

It will do all of the other things that are necessary to try to meet new problems with which many teachers are confronted and for which they are totally unprepared.

This bill provides funds to retrain teachers. In White Plains, N.Y., the superintendent told us that one of the most serious problems he had in his city was that very often white teachers had no concept of how to deal with the many problems minority children brought to school. So there was disunity, upheaval, dissention, and violence.

We had hearings in New York City a couple of weeks ago, and we found that 67 teachers had been assaulted so far this year, 27 of them raped, and one of them sprayed with lighter fluid and a match thrown at her. In Boston there were 200 teachers assaulted.

There are enormous problems to deal with. We need to help the local communities deal with the problems.

Are we going to shut down shop and let them struggle, let the schools be resegregated, and let the public schools go down the drain?

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. PUCINSKI was allowed to proceed for 5 additional minutes.)

Mr. PUCINSKI. Mr. Chairman, the fact remains that we do have a serious problem in this country. This bill has been carefully thought through. This is not something we wrote in some heat of passion. It is a bipartisan bill. It comes before this House presented by Members who carefully studied the problem. I do hope we can consider this and approve it.

I know we are dealing with an explosive problem but in the final analysis, it is children—schoolchildren—who suffer most. I do hope the House will adopt this legislation.

I wish to announce that starting next week, we will hold hearings on a general aid bill—the President's revenue sharing proposal—which will bring massive assistance to schools which are not qualified for relief under the bill. I am most anxious to get urgently needed help to these schools.

Mr. Chairman, I now yield to the gentlewoman from Oregon, the chairman of our subcommittee.

Mrs. GREEN of Oregon. Mr. Chairman, I should like to see if we can reach an agreement on time. This was debated last Monday. There is no Member here who does not know what is in the bill.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 30 minutes.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentlewoman from Oregon?

Mr. QUIE. Mr. Chairman, reserving the right to object, I do so to point out that on Monday we had only 40 minutes in order to debate the bill. One of the reasons why it was defeated was that Members were denied the opportunity to express themselves.

I recognize most Members know what is involved, but one of the problems was the time limitation. With this number of Members present, I do not think we should be limited to 1 minute each. If the gentlewoman would look over the situation, perhaps we could get a more reasonable time.

Mrs. GREEN of Oregon. Mr. Chairman, the gentleman almost asks me to limit it to 10.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. BADILLO. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 45 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentlewoman from Oregon (Mrs. GREEN).

The motion was agreed to.

The CHAIRMAN pro tempore. The Chair will recognize the named Members for one and three-quarters minutes.

The Chair now recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I ask unanimous consent to yield my time to Mr. BADILLO.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

Mr. EDWARDS of Alabama. Mr. Chairman, I object.

Mr. WILLIAM D. FORD. Mr. Chairman, is it proper under the rules to recognize the members of the committee first in the order of seniority?

The CHAIRMAN pro tempore. The gentleman is correct. The Chair had intended to recognize the committee members toward the end, but the Chair will be glad to recognize the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Chairman, I had intended that the Chair recognize the gentlewoman from Oregon.

The CHAIRMAN pro tempore. As the gentleman knows, it is customary for the chairman of the committee to close debate.

The Chair now recognizes the gentleman from Michigan (Mr. WILLIAM D. FORD).

SUBSTITUTE AMENDMENT OFFERED BY MR. WILLIAM D. FORD FOR THE AMENDMENT BY MR. PUCINSKI

Mr. WILLIAM D. FORD. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Substitute amendment offered by Mr. WILLIAM D. FORD for the amendment offered by Mr. PUCINSKI:

Strike out Section 2101 and all that follows and insert in lieu thereof the following:

SEC. 2101(a). The Commissioner of Education shall make a full and complete investigation and study to determine the extent of the need of local educational agencies in the Nation for assistance in meeting their special needs incident to carrying out plans for the elimination of racial segregation and discrimination among students and faculty in their elementary and secondary schools.

(b) The Commissioner of Education shall make a report to the Congress on the results of the study and investigation required by subsection (a) on or before July 1, 1972.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. SCHEUER. Mr. Chairman, I ask unanimous consent that I be allowed to yield my time to the gentleman from Michigan (Mr. WILLIAM D. FORD).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. EDWARDS of Alabama. Mr. Chairman, I object.

Mr. WILLIAM D. FORD. Mr. Chairman, this amendment very simply strikes out all after the title in the first sentence of the Pucinski amendment and directs the Secretary of HEW to make a study of the subject matter of the Pucinski amendment and report back to this body on or before June 30, 1971, so that we can take up this very touchy subject under certainly more normal conditions.

I do not think any of us are proud of the performance that we have all taken part in tonight. I do not think any of us are happy about the way in which we have been legislating. Certainly we should not burden as important a piece of legislation as the Higher Education Act which has been worked out for the past 4 days with this very complicated 40-page amendment at this point.

It is all very well to talk about the fact that one or two issues are involved here that disturb people. The plain fact of the matter is that it is full of problems for everybody concerned, and people of good faith on all sides of a number of these issues would like to have an opportunity to work them out.

The principle we proceeded on when the administration asked for this legislation was that the money was needed in order to bus children. We have decided here today that we will not use Federal dollars to bus children. That being the case, the premise on which this legislation has rested for 2 years has now been eliminated.

I suggest that we send this back to the Secretary of Health, Education, and Welfare to see what he can come up with next year.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I yield to the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Chairman, I do not want anyone to think that this is in any way a tricky amendment. It is very plain and simple. It provides for sending the Pucinski amendment back to the administration for a study and specific recommendations. We had a specific recommendation which was the form of the legislation that passed through the subcommittee but then on August 3 of this year the administration changed its position on it.

Mr. Chairman, the principal purpose of this bill has been changed 180°. Since that time there has been absolute confusion in the country as to what if anything we would be able to do with this $1.5 billion if we passed this legislation.

The CHAIRMAN pro tempore. The Chair would inquire if any member of the committee would like to speak to the amendment which has been offered by the gentleman from Michigan (Mr. WILLIAM D. FORD)?

Mrs. GREEN of Oregon. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. Chairman, on Monday there was a vote of 135 to 222 on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI). There have been some changes in it now, but in essence it is the same bill.

It seems to me that what this House

ought to do is to recognize the needs of the schools across the country. The Education and Labor Committee ought to give serious consideration and this administration ought to give serious consideration to what is happening in our schools, especially in the urban centers. There we should bring in a bill that would do something for our schools.

Instead of this $1.5 billion bill, which the gentleman from Illinois earlier in the year called a massive busing bill, for that was the original intent of the bill, we ought to go back and look at the decay in our schools and look at the disorder, the chaos and violence and then determine to really do something about it.

So, I would hope that the Committee of the Whole House on the State of the Union would give serious consideration to the substitute amendment which has been offered by the gentleman from Michigan and vote on that. As the gentleman from Michigan said, we could go home and come back another day and work on a bill that will do something for our schools.

The CHAIRMAN pro tempore. The Chair would inquire again as to whether or not any member of the committee desires to speak to the amendment which has been offered by the gentleman from Michigan?

Mr. QUIE. Mr. Chairman, I would like to be heard on the amendment.

One of the problems that many of the Member are faced with is the very question that the gentlewoman from Oregon has raised when there is a prohibition against any of the money being used for busing: Is there any need for the assistance?

Mr. Chairman, let me tell the members of the committee briefly—and the gentleman from Illinois (Mr. PUCINSKI) indicated this—this is not a busing bill. He might have called it that earlier in the year, but no money will be used for busing. But there is still a tremendous amount of good that this could be used for.

The bill lists the authorizations and activities which include remedial aid services to meet the special needs of children; the provision of additional professional or other staff members and the training and retaining of staff for such schools; comprehensive guidance, counseling, and other personal services for such children; development and employment of new instructional techniques and materials designed to meet the needs of such children; educational programs using shared facilities for career education and other specialized activities; innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children; repair or minor remodeling or alteration of existing school facilities; community activities, including public education efforts in support of a plan or activity described in this program—the very things that are necessary that a school has to do in order to embark upon a quality program when there is an integration of the school. The President has been willing to permit the use of this additional amount of money for these schools. In fact he asked for it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I will be delighted to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding, and I think that the Members now ought to put aside any pique they might have. I myself voted against the Ashbrook amendment, but I do not feel any animosity for it. The House decided that no money can be used for busing, so let us not be angry because that is the case, and turn down the rest of the legislation.

Let us not stop the money that was intended for the purposes of this bill, and that the President intended for it. The President has requested that there be $1.5 billion to help in the additional costs of desegregation. Let us let the executive do this, and if it comes to authorizing money, let us get on with the act, because there are a great many more expenditures to improve education other than busing, because of the fact that in the minds of many people these expenditures are wise and necessary. They would be wise expenditures for education that will be needed under the authority that we will provide under the Emergency School Aid Act.

I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I am concerned about the limitation of debate on such a far-reaching measure. Nevertheless debate has been limited——

Mr. PUCINSKI. Mr. Chairman, if the gentleman will yield, will the chairman of the full committee tell this Member why we are here at 12:30, when the gentleman was the author and the chief sponsor in the committee in attempting to wreck the bill, and now he wants to completely wreck it, and we are here only because of his tactics.

Mr. PERKINS. Let me state to my distinguished colleague from Illinois that I have consistently stated that the higher education bill should have and must have priority over the emergency school aid measure. The basic authorization for higher education programs expired 4 months ago. The bill is already a comprehensive piece of legislation with authorizations of over $4 billion annually.

Obviously we will have complex problems to deal with in conference. We will have to work rapidly. Colleges and universities are now in the process of making their budgets, as is the administration and the Office of Education. Even though I have supported the emergency school aid measure in the past and will as separate legislation in the future, I believe we should vote down the Pucinski amendment tonight.

In my judgment our best course of action is to consider these measures separately. To do otherwise may severely complicate progress on both measures.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. BELL).

Mr. BELL. Mr. Chairman, this bill has been around for 18 months. We have all heard it, we have all debated it. A similar bill passed the House last year, but failed to get action in the other body. Much the same bill passed the Senate this year—so we are familiar with this act.

It contains, as has been said before, an absolute prohibition against busing. So that problem is out. The President himself has requested this legislation be passed. And he has requested and said that he will request full funding for this legislation.

The amount of money involved, as you all know, is $1.5 billion. That is what the President is going to request, and there will not be a big difference between the authorization and the appropriation because the needs are such that he hopes to come very close to that figure, when the appropriation is made.

The need for this money is quite apparent. The schools in your home districts are waiting for this money. They are in trouble, and they need help in the national problem of desegregation, not busing, but some of the problems that have to be worked out under desegregation. You all know what the problems are without my taking the time to go into them.

So I think it is fairly evident that there is a great need for this legislation, and I recommend that we pass it.

The CHAIRMAN pro tempore. The Chair would like to inquire again of the remaining listed Members on the time limitation as to whether or not they would desire to speak to the substitute amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. HAWKINS. Mr. Chairman, I do.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, a few moments ago I spoke in opposition to the anti-busing amendment. At that time I said we were given this problem because many school districts had not done what they should have done. I think consistently we should, therefore, make it possible for school districts to do the things they should do quite apart from busing.

The amendment offered by the gentleman from Illinois (Mr. PUCINSKI) would do that. Mr. BELL and I have worked on this matter for more than a year. I think the administration, to its credit, and I am one of the strongest critics of the administration—but I think the administration, to its credit, has offered this new concept for the first time, that this country will deal with the problem of desegregation head on and will make funds available for that purpose.

I would hope that without partisanship we would go along with this program. It is not just the administration's program, it is a program worked out in conjunction with the administration by a bipartisan group of Members of this House.

I think it is a good bill. It is a bill that has never really been discussed because the opposition has opposed open

and full debate. We have not been given a full opportunity to discuss it. It is an opportunity that I think as Americans we should grasp in behalf of our children—and not think merely of our political fate.

I hope the motion to discuss this matter and to study it which is unnecessary should be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Chairman, I speak on this occasion primarily to those on our side of the aisle.

Mr. ALBERT. Mr. Chairman, will the gentleman yield to me just to make a brief statement?

Mr. GERALD R. FORD. I yield to the distinguished Speaker of the House.

Mr. ALBERT. Mr. Chairman, I am sorry this matter has had to come up under this procedure. I did not like bringing it up under suspension of the rules, but we were faced with a fact situation and not a theory.

This is the only way I know of to consider this legislation and I intend to support it.

Mr. GERALD R. FORD. I thank the distinguished Speaker for that statement. I think it will be extremely helpful and beneficial in defeating the Ford amendment and approving the Pucinski amendment to the higher education bill.

This is an important and critical issue at this juncture in time and I think the Speaker's words will be tremendously influential.

To the Members on my side, we have had a Republican conference and we have by word of mouth done a great deal of work trying to convince Members that we should support this program because it is an integral and vital part of the President's education program.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

The Chair recognizes the gentleman from Ohio (Mr. Bow).

Mr. BOW. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, as I mentioned, I have a letter from the President of the United States directed to me and dated October 31, 1971. I will only read three or four of the pertinent sentences, but I read them with emphasis because I think the people on our side should respond—and they are as follows:

> As you know, I have consistently attached the highest importance to the enactment of the Emergency School Aid Act.
>
> With this in view I wish to reemphasize with you how necessary this bill is. The funds must be available to local school officials for the purposes I have outlined if they are to plan adequately for the opening of school in the Fall of 1972.

Now what are those purposes? Those purposes are set forth in 2½ pages under the title of "Authorized Activities." The gentleman from Minnesota read a number of those authorized activities. They do not relate to busing. They relate to the day-to-day operations of the schools—schools that are under pressure—these are authorized activities that we should support. They are legitimate. They are bona fide.

I urge you as strongly as I can to defeat the Ford amendment and to support the Pucinski amendment as part of the higher education act.

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. ESCH) desire to speak on the Ford amendment.

Mr. ESCH. Yes, Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. ESCH) is recognized.

Mr. ESCH. Mr. Chairman, I rise in support of the Pucinski amendment and against the Ford amendment, as was so eloquently stated by our Minority Leader, the intent of the bill is to aid those schoolchildren in those districts who are facing the problem of school integration. Many thought that my previous amendment was misdirected. But there can be no question about the thrust of the Pucinski amendment. It has nothing to do with busing. It explicitly states that the purpose is to provide funds to help those school districts and those children who face the problems of integration.

I would like to inquire of the gentleman from Illinois, who is chairman of the subcommittee which produced the bill this amendment incorporates, about one critical aspect of eligibility for assistance under this amendment. Will the Secretary be authorized to apply the holding in the Singleton case—which is that you have to have a perfect racial balance in the faculty in every single school in your district—as a condition or requirement for assistance under this program?

Mr. PUCINSKI. The answer is absolutely not. As the gentleman knows, this holding has been applied to applications for assistance under the emergency school assistance program—because that program had no requirements spelled out in legislation and the Secretary applied court decisions as eligibility requirements. He could not do so under this amendment because the amendment is very specific in its terms and imposes no such requirement. If it did, very few school districts could qualify. The Secretary will have to apply the eligibility requirements spelled out in this amendment and those do not include racial balancing of faculty and staff in every school.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I rise in opposition to the Ford amendment and yield to the gentleman from North Carolina (Mr. RUTH).

Mr. RUTH. Mr. Chairman, earlier I explained the trials and the tribulations of getting this bill to the floor. With the highest respect for the gentleman from Michigan, I point out that this is another effort to derail the bill, and I hope that you will vote against Mr. FORD's amendment. This gives the House an opportunity to work its will on the desegregation bill which has had all this trouble getting here.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, this is a very important bill to the schoolchildren throughout the South. It is important to the schoolchildren throughout the South because our schools are in shambles—our black schools, our white schools, and our integrated schools. Over the last 4 years we have had closed more than 400 schools, not because of inadequate facilities, but because they did not have the right racial balance.

In my own district we had a 6-year-old million dollar school, an all-black school was ordered closed by the Federal court because if it remained open, it would have been a segregated school, since all the children attending there were black and lived closer to it than to any other school. Fortunately, the court later reversed its order. But this money will help to provide for quality education of our children. With this money we will not bus or increase integration, but we are going to be attacking the problems of education. We are going to put the problems of busing aside now, and we are going to think about the welfare of the children and their future and the future of this Nation. That is where our money should be spent.

I certainly hope that this committee will turn down the amendment of the gentleman from Michigan (Mr. WILLIAM FORD) and support the Pucinski amendment, because it is needed.

May I say one thing more to those of you who may be concerned, that defeating the antibusing amendment will mean that there may be racially-identifiable schools, black schools, or a white school, true this may be, but if it is an inferior school, whether it is black or white, it should be upgraded, and this money will help do just that. In short, it will not integrate, but educate.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, I have another amendment I wish to offer later.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman and members of the committee, this legislation does not require anything on anybody's part if you do not feel that you have a need for this money. It does require a voluntary application on the part of any school system that feels that they have had or do have problems of desegregation with education. To my knowledge, every major complaint that any individual has made about this bill has been resolved by the committee and by the Department of Health, Education, and Welfare.

I am a practical man. I believe that some time during the 92d Congress we are going to get some sort of bill having to do with emergency assistance. It is my personal opinion that tonight under these circumstances with the language that is embodied in this bill we are going to come about as near to getting a bill that we can utilize and that our school boards can utilize as we will ever get.

We are not going to have any trouble with the Singleton decision having to do with racial quota assignments of teachers. There is nothing retroactive about it. It contains an absolute busing prohibi-

tion and a neighborhood amendment. We are going to go to conference with the Senate with a bill that they are going to have to meet us on more than halfway, inasmuch as this will be, if the Members so desire, an amendment or new title to the higher education bill. They have no such bill. I believe our conferees will stand up for this legislation. If they do not we can instruct the conferees.

I urge the Members to vote for the Pucinski amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I rise in support of the Ford amendment and in opposition to the amendment offered by the gentleman from Illinois.

We voted on this issue earlier in the week, and the amendment of the gentleman from Illinois was soundly defeated. My name has been brought into the discussion by the gentleman from Illinois. I objected to the bill earlier this week and especially to certain provisions in the bill and voted against it. This is still a one and one-half billion dollar proposal and it is still, regardless of all our protestations, in my judgment, in effect a roundabout way to enact a probusing amendment in the form of a $1.5 billion amendment.

I think, as the chairman of the Committee on Education and Labor thinks, that this amendment should not be adopted, that these funds should not be provided, and that the amendment of the gentleman from Michigan (Mr. FORD), should be approved.

Under the circumstances there is not enough money in all the land to finance this bill. The original bill provides for $20 billion plus. The additional $1.5 billion, should not be added to an already topheavy measure. I think we will be doing the schools of the country an injustice to lead them to believe that we can finance the huge sums provided in the pending measure. Are we forgetting that the estimated deficit for this year will be at least $35 billion in Federal funds—that the Federal funds deficit last year was $30 billion?

Certainly this is the time when we can at least defeat this $1.5 billion amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Chairman, I rise in support of the Ford amendment. I would like to be associated with the remarks of the gentleman who offered the amendment which seeks a study of the needs of these school systems who are in the process of desegregation.

I would like to advise this House I supported in committee the bill which is now the amendment offered by the gentleman from Illinois. I supported it when it came up before the House on Monday. The Pucinski amendment as it is now being presented, however, lacks specific assurance which we had provided in the bill which was voted on on Monday, which guaranteed against jeopardy of title I ESEA funds and impact aid funds.

The chairman of the Appropriations Committee has put very well the very critical problems facing not only this Congress, but the whole country; which is the lack of funds to provide the necessary quality education for our children.

The emergency desegregation program which was initiated by the President, consisting of $75 million he found to augment the program without congressional approval, threatened funding to these very programs to which I am addressing my remarks. There have been many attempts to curtail the appropriations of impact funds. I submit that if the amendment offered by the gentleman from Illinois is voted on tonight without assurance that title I funds and impact aid funds are protected, we will face a cut in funds again.

If this happens, we will have to be coming before this Congress time after time to seek supplemental appropriations for these two vital programs.

I urge support of the Ford amendment.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. First, Mr. Chairman, I shall place in the RECORD at the appropriate time a letter from the Secretary to the chairman of this committee, assuring the chairman that there will be no transfer of funds from existing programs to this program.

There was testimony before the committee, and the Secretary reaffirmed that principle, that this would be new money.

Secondly, the gentleman from Texas made a point about the lack of funds. The gentleman from Texas is the chairman of the Appropriations Committee. He is going to decide how much, if any, money is going to be funded for the program.

Let me remind the Members of one final thing. On November 15 of this year, in a few days, all money for the present emergency program will have expired. A continuing resolution will not do any good. The $75 million is gone.

There will be hundreds of school districts in this country which will be very adversely affected, because they have already hired teachers. They have made commitments. They are now operating under existing programs. That program will die on November 15, and a continuing resolution will not revive it, because the appropriation has expired.

I underscore to the Members that the people now proposing this study are the people who have tried to block this bill every bloody inch of the way.

Mr. Chairman, the letter from Secretary Richardson follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C. November 3, 1971.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to express the strong opposition of the Department of Health, Education, and Welfare to the provisions of section 3(b) of H.R. 2266, the Emergency School Aid Act of 1971, as ordered reported on October 5, 1971 by the Committee on Education and Labor. This section would provide that no appropriation be authorized for the purposes of the Act in any fiscal year in which funds are not appropriated for the Elementary and Secondary Education Act of 1965 and P.L. 81-874 in amounts at least equal to the funds appropriated for those programs during the immediately preceding fiscal year.

Proponents of the section have expressed concern that funds for the Emergency School Aid Act would be diverted in the President's Budget from funds that the Administration would otherwise seek for ESEA and P.L. 81-874 programs. To the contrary, the Administration has repeatedly stated that the expenditure of $1.5 billion for Emergency School Aid will be in addition to funds for other education programs. In his May 21, 1970 Message on School Desegregation, President Nixon stated that he would recommend the expenditure of "an additional $1.5 billion" under the Act. Former HEW Secretary Robert H. Finch, in testimony before your committee, repeated the pledge that "no dollars will be taken from any existing educational programs" as a result of the Act. This pledge was repeated once again, in testimony this year, by U.S. Commissioner of Education Sidney P. Marland, Jr. Consequently, there should be no question whatever about diversion of funds from other programs.

In the light of these firm Administration commitments, section 3(b) is entirely unnecessary. Its only practical effect would be to mandate the funding of certain educational programs by the Congress at preceding year levels rather than allowing Congress the flexibility to decide necessary appropriation levels for Federal education programs on their own merits through the normal appropriations process.

As a result, I would very much urge the deletion of section 3(b) from the bill when the House of Representatives considers it.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

The CHAIRMAN pro tempore. The question is on the substitute amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD) for the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. WILLIAM D. FORD. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. WILLIAM D. FORD. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mr. WILLIAM D. FORD, Mr. PUCINSKI, Mrs. GREEN of Oregon, and Mr. STEIGER of Wisconsin.

The Committee divided, and the tellers reported that there were—ayes 92, noes 269, not voting 70, as follows:

[Roll No. 358]

[Recorded Teller Vote]

AYES—92

Abernethy	Chappell	Fulton, Tenn.
Abourezk	Clay	Gettys
Adams	Collins, Tex.	Giaimo
Andrews, Ala.	Colmer	Gonzalez
Archer	Cotter	Green, Oreg.
Ashley	Crane	Griffin
Badillo	Daniels, N.J.	Gross
Baring	Dent	Haley
Bergland	Dingell	Hamilton
Biaggi	Edmondson	Hansen, Wash.
Blackburn	Edwards, Calif.	Hathaway
Blatnik	Eilberg	Hicks, Wash.
Brinkley	Evins, Tenn.	Hungate
Burlison, Mo.	Flynt	Hutchinson
Burton	Ford, William D.	Ichord
Carey, N.Y.		Jacobs

Karth	Mollohan	Scott
Kastenmeier	Moorhead	Seiberling
Landgrebe	Nedzi	Sikes
Leggett	Obey	Slack
Long, Md.	O'Hara	Steed
McCormack	Patten	Steiger, Ariz.
McKay	Perkins	Sullivan
McMillan	Purcell	Symington
Mahon	Randall	Ullman
Mann	Rarick	Vigorito
Mathis, Ga.	Roe	Waldie
Matsunaga	Roush	Whalen
Meeds	Rousselot	Whitten
Mikva	Runnels	Yates
Mink	Schmitz	Zablocki

NOES—269

Abbitt	Fascell	Morgan
Abzug	Fish	Morse
Addabbo	Fisher	Mosher
Albert	Flood	Moss
Alexander	Flowers	Murphy, Ill.
Anderson, Calif.	Ford, Gerald R.	Murphy, N.Y.
	Forsythe	Myers
Anderson, Ill.	Fountain	Natcher
Anderson, Tenn.	Fraser	Nelsen
	Frelinghuysen	Nichols
Andrews, N. Dak.	Frenzel	Nix
	Frey	O'Konski
Annunzio	Fuqua	O'Neill
Arends	Galifianakis	Passman
Ashbrook	Gallagher	Pelly
Begich	Garmatz	Pepper
Bell	Gaydos	Pettis
Bennett	Gibbons	Peyser
Betts	Goldwater	Pickle
Bevill	Goodling	Pike
Biester	Grasso	Podell
Bingham	Green, Pa.	Poff
Boggs	Grover	Powell
Boland	Gude	Preyer, N.C.
Bolling	Hagan	Price, Ill.
Bow	Hall	Price, Tex.
Brademas	Hammer-schmidt	Pryor, Ark.
Brasco		Pucinski
Bray	Hanley	Quie
Brooks	Hanna	Quillen
Broomfield	Harrington	Railsback
Brotzman	Harsha	Rangel
Brown, Ohio	Harvey	Reid, N.Y.
Broyhill, N.C.	Hawkins	Reuss
Buchanan	Hays	Rhodes
Burke, Fla.	Hechler, W. Va.	Riegle
Burke, Mass.	Heckler, Mass.	Robinson, Va.
Burleson, Tex.	Heinz	Robison, N.Y.
Byrne, Pa.	Helstoski	Rodino
Byrnes, Wis.	Henderson	Rogers
Byron	Hicks, Mass.	Roncalio
Caffery	Hillis	Rooney, N.Y.
Camp	Hogan	Rooney, Pa.
Carter	Holifield	Rosenthal
Casey, Tex.	Horton	Rostenkowski
Cederberg	Hull	Roy
Celler	Hunt	Roybal
Chamberlain	Johnson, Pa.	Ruth
Chisholm	Jonas	Ryan
Clancy	Jones, Ala.	St Germain
Clark	Jones, N.C.	Sandman
Clausen, Don H.	Kazen	Sarbanes
	Keating	Satterfield
Clawson, Del	Keith	Saylor
Cleveland	Kemp	Scherle
Collier	King	Scheuer
Collins, Ill.	Kluczynski	Schneebeli
Conable	Kuykendall	Schwengel
Conte	Kyl	Shipley
Conyers	Landrum	Shoup
Corman	Latta	Shriver
Coughlin	Lent	Smith, Calif.
Daniel, Va.	Link	Smith, Iowa
Danielson	McClory	Snyder
Davis, S.C.	McCloskey	Spence
Davis, Wis.	McCollister	Springer
de la Garza	McDade	Stanton, James V.
Delaney	McEwen	
Dellenback	McFall	Steele
Dellums	McKevitt	Steiger, Wis.
Denholm	McKinney	Stokes
Devine	Macdonald, Mass.	Stratton
Dickinson		Stubblefield
Donohue	Madden	Talcott
Dorn	Mailliard	Teague, Calif.
Dow	Mathias, Calif.	Terry
Downing	Mayne	Thompson, Ga.
Drinan	Mazzoli	Thompson, N.J.
Dulski	Melcher	Thomson, Wis.
Duncan	Michel	Thone
du Pont	Miller, Ohio	Tiernan
Dwyer	Mills, Md.	Van Deerlin
Eckhardt	Minish	Vanik
Edwards, Ala.	Minshall	Veysey
Erlenborn	Mitchell	Waggonner
Esch	Mizell	Wampler
Eshleman	Monagan	Ware
Evans, Colo.	Montgomery	Whalley
Whitehurst	Winn	Yatron
Widnall	Wolff	Young, Fla.
Williams	Wydler	Young, Tex.
Wilson, Bob	Wyman	Zwach

NOT VOTING—70

Aspin	Hébert	Roberts
Aspinall	Hosmer	Ruppe
Baker	Howard	Sebelius
Barrett	Jarman	Sisk
Belcher	Johnson, Calif.	Skubitz
Blanton	Jones, Tenn.	Smith, N.Y.
Brown, Mich.	Kee	Staggers
Broyhill, Va.	Koch	Stanton, J. William
Cabell	Kyros	
Carney	Lennon	Stephens
Culver	Lloyd	Stuckey
Davis, Ga.	Long, La.	Taylor
Dennis	Lujan	Teague, Tex.
Derwinski	McClure	Udall
Diggs	McCulloch	Vander Jagt
Dowdy	McDonald, Mich.	White
Edwards, La.		Wiggins
Findley	Martin	Wilson, Charles H.
Foley	Metcalfe	
Gray	Miller, Calif.	Wright
Griffiths	Mills, Ark.	Wyatt
Gubser	Patman	Wylie
Halpern	Pirnie	Zion
Hansen, Idaho	Poage	
Hastings	Rees	

So the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. BADILLO TO THE AMENDMENT OFFERED BY MR. PUCINSKI

Mr. BADILLO. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO to the amendment offered by Mr. PUCINSKI:

On page 282 at line 9 after the title "Title XXI—Emergency School Aid" insert a "Part A" and after section 2118 insert a new "Part B" as follows:

"PART B

"PURPOSES AND FINDINGS

"SEC. 2151. The Congress finds that—

"(a) minority group isolation in our public schools, regardless of the origin of such isolation, causes irreparable harm to the children of this Nation;

"(b) minority group isolation in the public schools of our Nation's metropolitan areas, where the majority of our children live, is increasing and intensifying;

"(c) minority group isolation in large part results from housing, zoning, education, and other economic, social, and political policies and decisions of government at all levels;

"(d) the general welfare of this Nation requires the elimination of minority group isolation in public schools wherever and how it occurs; and

"(e) this Nation must therefore commit its moral strength and financial resources to the achievement of this goal.

"Sec. 2152. It is the purpose of this part—

"(a) to require State and local educational agencies in metropolitan areas throughout this country to develop and implement plans which will reduce and eliminate minority group isolation in our public schools, whatever the cause of such isolation; and

"(b) to provide financial assistance to assist State and local educational agencies to develop and implement such plans.

"DEFINITIONS

"SEC. 2153. As used in this part, except when otherwise specified—

"(a)(1) The term 'minority group children' means:

"(A) children, aged five to nineteen, inclusive, who are Negro, American Indian, or Spanish-surnamed Americans; and

"(B) as determined by the Secretary, children of such ages from environments where the dominant language is other than English and who, as a result of limited English-speaking ability, are educationally deprived.

"(2) The term 'Spanish-surnamed American' includes persons of Mexican, Puerto Rican, Cuban, or other Latin American or Spanish origin or ancestry.

"(b) The term 'minority group isolation' means a condition in which minority group children in a school constitute more than 50 per centum of the average daily enrollment of that school. The term 'minority group isolated' refers to a school in which such condition of minority group isolation exists.

"(c) The term 'school' means those elementary and secondary public schools of a State which are located within a standard metropolitan statistical area (SMSA).

"(d) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

"(e) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control, or direction of, public elementary or secondary schools in a district or other unit of the State, or a combination of such districts or other units and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school: *Provided*, That the term shall not refer to any such agency located outside an SMSA.

"(f) The term 'noncooperating local educational agency' means any local educational agency which refuses or has refused to participate in the preparation, submission, revision, or implementation of an acceptable plan as required by this part.

"(g) The term 'cooperating local educational agency' means any local educational agency that has participated in the preparation, submission, revision, and implementation of an acceptable plan as required by this part.

"(h) The term 'State' means any State in which there is an area defined as a standard metropolitan statistical area, and the District of Columbia.

"(i) The term 'Standard Metropolitan Statistical Area' or 'SMSA' means the area in and around cities of fifty thousand inhabitants or more as defined by the Office of Management and Budget: *Provided*, That the term shall mean only that portion of Statistical Area' or 'SMSA' means the area which lies wholly within the boundaries of one State. Each portion of an SMSA in a different State shall be considered an independent SMSA for purposes of this part.

"(j) The term 'Secretary' means the Secretary of Health, Education, and Welfare or his designee.

"(k) The term 'Federal educational funds' means Federal funds appropriated for grants, loans, contracts, or other financial assistance to a State educational agency, a local educational agency, an individual school, or to an individual in compensation for services rendered such organizations. This term shall not mean funds which go to individuals in the form of scholarships, fellowships, loans, cost-of-education payments, or other such assistance which is designed to further that individual's education, nor shall it mean funds which are to assist private, nonprofit organizations in the provision of education in preelementary and elementary situations.

"THE PLAN

"SEC. 2154. Each State shall prepare and file with the Secretary for his approval, in accordance with regulations issued by him, a plan under which it will establish and supervise the operation in each SMSA of an SMSA agency to develop with the local educational agencies within the SMSA a plan to reduce minority group isolation in their schools: *Provided*, That, should any State refuse to comply with the provisions of this

part, the local educational agencies within an SMSA may then independently create or assume control of such an SMSA agency.

"SEC. 2155. The plan developed by each such SMSA agency shall—

"(a) contain the proposals by which the local educational agencies within an SMSA agree to reduce minority group isolation in their schools;

"(b) provide that by a date approved by the Secretary, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school of the SMSA shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools of that SMSA;

"(c) include the use of techniques, as appropriate in local circumstances, such as redrawing school boundaries, creating unified school districts, pairing schools or school districts, establishing educational parks and magnet schools as well as other techniques designed to end as soon as possible minority group isolation in all schools within the SMSA;

"(d) provide for the establishment of committees composed of local parents, teachers, and students, the members of such committees to be representative of the minority and majority population groups of the SMSA as a whole and the geographical areas within the SMSA, to advise the local education agencies and the SMSA agency, in open consultation including public hearings at which such persons have had a full opportunity to explore and discuss the program for which assistance is being sought and to offer recommendations thereon, regarding the development of the plan required by this part and to report periodically to the Secretary on the extent of compliance with the requirements of this part;

"(e) set forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committees established for the purposes of 402(d) above;

"(f) provide that in each year of operation of the plan, substantial progress toward fulfilling the requirements of this part shall be made; and

"(g) provide that State financial assistance to local educational agencies within each SMSA shall not be so calculated, based, rated, or fixed in any manner as to result in the condition that the per pupil contribution of the State to any minority group isolated school within the SMSA shall be less than per pupil contribution of the State to any nonminority group isolated school within the SMSA.

"SEC. 2156. (a) The plan required by section 2155 must be submitted to and approved by the Secretary no later than July 1, 1974.

"(b) The Secretary is authorized to promulgate and issue regulations regarding the time and manner of submission of such plans for his approval.

"SEC. 2157. In extreme and unusual cases should the Secretary determine that the size, shape, or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unecessary for fulfillment of the purposes of this part or excessively disruptive of the educational process, he may exempt such parts from participation in the plan. Such exemptions shall be in writing, fully explained and justified, and freely available to the public and the committees established for the purposes of section 2155 (d).

"SEC. 2158. Each SMSA agency shall annually prepare and file in accordance with regulations issued by the Secretary a report setting forth the results achieved under the plan and any necessary amendments to the plan to correct any deficiency of the plan. The Secretary shall assure that the plan and any reports filed with the Secretary in accordance with this section shall be made readily available to the public and to the committees established for the purposes of section 2155(d).

"SEC. 2159. The Secretary is directed to review annually the plan and the reports of each SMSA agency. If the Secretary finds that for any reason the purposes of this part are not being effectuated by the plan and any amendments thereto he shall, after giving appropriate notice to all concerned parties, withdraw his approval of the plan and each local educational agency in question will be treated as a noncooperating local educational agency: *Provided,* That if within a period prescribed by the Secretary, but in no event exceeding one hundred and eighty days following the Secretary's withdrawal of approval, the local educational agencies through their SMSA agency submit a revised plan approved by the Secretary, the local educational agencies within the SMSA shall be entitled to receive all funds withheld during the period.

"SEC. 2160. (a) Because of its unique circumstances, the SMSA for the District of Columbia shall include for purposes of this part Montgomery and Prince Georges Counties in Maryland, Arlington, Fairfax, and Prince William Counties in Virginia and the cities of Falls Church and Alexandria in Virginia, notwithstanding the provisions of section 2153(1) of this part.

"(b) A single plan shall be designed and submitted by all local educational agencies included in the District of Columbia SMSA: *Provided,* That the existence of noncooperating local educational agencies within this SMSA shall not affect the status of cooperating local educational agencies.

"SEC. 2161. No State or local educational agency shall formulate or administer its plan in a manner that will result in the separation of minority group children within a school or classroom.

"FINANCIAL ASSISTANCE

"SEC. 2162. PLANNING FUNDS.—

"(a) Within six months of the date of enactment of this part, the Secretary shall notify each State and local educational agency within an SMSA of the requirements of this part.

"(b) The Secretary shall issue regulations establishing procedures and a timetable according to which SMSA agencies required to file a plan under this part may apply for funds authorized to be appropriated by this part.

"(c) Upon application meeting the standards established by the Secretary, the Secretary shall grant to each SMSA agency funds for the development of a plan to reduce minority group isolation pursuant to the requirements of this part, the amount of such funds being determined by the number of minority group students and the number of all students enrolled in schools in the SMSA.

"SEC. 2163. (a) Each year following the implementation of an approved plan, cooperating local educational agencies through their SMSA agency, may submit to the Secretary applications for financial assistance.

"(b) An application for assistance under this part may be approved by the Secretary only if he determines that—

"(1) such application—

"(A) sets forth a plan which is sufficiently comprehensive to offer reasonable assurance that it will achieve one or more purposes for which grants may be made under this part; and

"(B) contains such other information, terms, conditions, and assurances as the Secretary may require to carry out the purposes of this part;

"(2) the applicant has adopted effective procedures for the continuing evaluation of programs or projects under this part;

"(3) the programs or projects for which assistance is sought will not result, and in the case of an ongoing program or project has not resulted, in an increase in the percentage of racial separation in any school.

"(4) no part of the assistance provided under this part shall be used to supplant funds, equipment, or services which are used to assist any private school. Should any funds provided under this part be used for this purpose, or for any other purpose that the Secretary finds to be inconsistent with the purposes of this part, the Secretary shall file suit in the United States District Court for the District of Columbia against either the school which received such funds or the State educational agency, or both, for restitution of the funds.

"(c) Upon the submission and approval of such an application, the Secretary is authorized to provide a cooperating local educational agency with sufficient funds to meet its obligations under its approved plan.

"(d) Funds provided under this section may be used for the following purposes or any other purposes the Secretary finds will promote an end to minority group isolation:

"(1) establishing and constructing magnet schools or educational parks in locations chosen to reduce the degree of minority group isolation in the schools of the SMSA;

"(2) providing additional staff members including paraprofessionals to provide guidance counseling, and training to assist minority group children in adjusting to a nonminority group isolated school environment;

"(3) providing counseling, retraining, and guidance for professional and other staff members who will be working with minority group children;

"(4) developing and implementing interracial educational programs and projects involving the joint participation of minority group and nonminority group children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

"(5) providing such additional transportation for children as may be necessitated by the plan developed pursuant to this part: *Provided,* That in the review and approval of SMSA plans under this part, the Secretary shall assure that any burden of transportation shall fall equitably on both minority and majority children;

"(6) expanding or altering facilities to accommodate students transferred under the plan;

"(7) community activities, including public education efforts, in support of the plans, programs, projects, or other activities developed pursuant to this part;

"(8) planning and evaluation activities and expenses of administration;

"(9) work study programs to provide the financial assistance necessary for minority group children to complete their education; and

"(10) other specially designed programs or projects which meet the purposes of this part.

"(c) No funds granted under this part may be used to supplant State or local educational funds presently being expended by State and local educational agencies.

"(f) The Secretary shall issue regulations establishing procedures and a timetable according to which State and local educational agencies entitled to apply for financial assistance under this part may apply to the Secretary for funds authorized to be appropriated by this section.

"RESTRICTIONS ON FEDERAL FINANCIAL ASSISTANCE

"SEC. 2164. (a) No noncooperating local educational agency shall be entitled to receive any Federal educational funds under this Act: *Provided,* That the presence within an SMSA of a noncooperating local educational agency shall not affect the eligibility

of cooperating local educational agencies in the SMSA to receive Federal educational funds.

"(b) No State that fails to participate in the preparation, submission, revision, and implementation of any plan or plans required by this part, and no State that continues to provide State funds or assistance after July 1, 1973, to any noncooperating local educational agency under section 2154(a) shall be entitled to received any Federal educational funds under this Act.

"APPROPRIATIONS

"SEC. 2165. (a) For the fiscal years beginning July 1, 1972, and July 1, 1973, respectively, there is authorized to be appropriated $25,000,000 each year to be used by SMSA agencies to develop and promulgate the plan herein required to be filed.

"SEC. 2166. For the fiscal years beginning July 1, 1974, and for each of the nine fiscal years following, there is authorized to be appropriated $2,000,000,000 each year for purposes of carrying out this part.

"SEC. 2167. Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

"JUDICIAL REVIEW

"SEC. 2168. (a) Any person affected by the enforcement or nonenforcement in the SMSA in which he resides of any provision of this part may petition the Secretary for an expedited hearing of his complaint.

"(b) Within sixty days of receiving such petition the Secretary shall hold a formal hearing to determine whether the provisions and purposes of this part are being carried out in the cause raised by the petitioner. A transcript shall be kept of the proceedings of the hearing.

"(c) Within thirty days after the date of the hearing, the Secretary shall issue a decision in writing which sets forth his findings and appropriate orders.

"(d) The Secretary's decision shall be reviewable, upon petition, by the United States Court of Appeals for the District of Columbia Circuit. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(e) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

"LAWS REPEALED

"SEC. 2169. The following provisions of law are hereby repealed:

"(a) Section 181 of the Elementary and Secondary Education Act Amendments of 1966.

"(b) Section 422 of the Elementary and Secondary Education Act Amendments of 1970.

"(c) Section 2 of the Elementary and Secondary Education Act Amendments of 1970.

"(d) Sections 102(d) and 205(f) of the demonstration Cities and Metropolitan Development Act of 1966.

"(e) Section 401(b) of the Civil Rights Act of 1964."

Mr. BADILLO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, is this the so-called Ribicoff amendment?

Mr. BADILLO. It is.

Mr. ASHBROOK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BADILLO) in support of his amendment.

Mr. BADILLO. Mr. Chairman, this is the so-called Ribicoff amendment, and those of you who are asking to vote will immediately get the opportunity to do so because I would not even attempt to try to explain this in 1¼ minutes.

Mr. Chairman, during Monday's debate on the Emergency School Aid Act I served notice that were that legislation defeated under suspension of the rules and offered again as an amendment to the Higher Education Act, I would offer the provisions of H.R. 7212, the Urban Education Improvement Act, as a further amendment. That is what I am doing now, I read into the RECORD of Monday's debate a section-by-section analysis of this bill so that my colleagues would have ample opportunity to familiarize themselves with its provisions.

The legislation, I am now proposing, is the House counterpart to a bill authored by the distinguished senior Senator from Connecticut ABRAHAM RIBICOFF. He offered it as an amendment to the Senate version of the emergency school aid bill and while it was defeated on a 51-to-35 vote, it received the support of Senators from both parties from North and South, East and West. Among those voting for the amendment were Senator BROOKE, of Massachusetts, Senator STENNIS, of Mississippi, Senator MONDALE, of Minnesota, Senator JACKSON, of Washington, Senator HATFIELD, of Oregon, and the Senate majority leader, Senator MANSFIELD, of Montana.

All six Senators then mentioned as prominent presidential hopefuls voted for the amendment.

Mr. Chairman, I want to emphasize that my amendment is in no way a substitute for the amendment incorporating provisions of the Emergency School Aid Act. I supported that bill in committee and feel strongly the committee bill snould be enacted.

What my amendment does is to build on the 2-year program authorized by the Emergency School Aid Act—to provide the planning resources and financial assistance necessary to end racial isolation in our schools—North and South, East and West. I would point out to my colleagues that Mr. PUCINSKI's amendment affirms a national policy that all guidelines and criteria established pursuant to that legislation shall be applied uniformly and "without regard to the origin or cause" of school segregation.

The amendment I offer today is based on what must be recognized as fact: that minority segregation and racial isolation in our schools is harmful to the education of our children whether it is de jure or de facto.

The essentials of my amendment are these:

First, it requires each State to prepare and file with the Secretary of Health, Education, and Welfare a plan under which an agency within each standard metropolitan statistical area in the State will develop with local educational agencies a program to reduce minority group isolation in their schools.

Second, it sets a 10-year goal of having the percentage of minority group enrolled in each school of the SMSA equal to at least half the percentage of minority group children enrolled in all schools in the SMSA.

Third, it requires a showing of substantial progress toward the goal in each year of operation of the program.

Fourth, it allows the Secretary of Health, Education, and Welfare in extreme and unusual cases to exempt portions of an SMSA from the plan where necessary because of the size, shape, or population distributions of an SMSA

Fifth, provides Federal funds both for the initial planning and for actual implementation of the plan—$25 million for each of the first 2 years of planning and $2 billion a year for each of the 10 years required to implement the plan.

This amendment does not mandate any particular plan or set of plans to be imposed from community to community across the country. It leaves great flexibility at the local level and envisions the active involvement of parents and community members, as well as educators and school officials. But the amendment is a call to action.

Mr. Chairman, this country is at a turning point in the crisis of national unity.

No longer is the problem of discrimination regional. Racial isolation is now just as pervasive in the North as it is in the South. The most recent figures on school integration show that while only 27.6 percent of black students in the North attend majority white schools, 38.1 percent in the South do.

North and South, we must recognize that the divisiveness undermining the strength of our country will end only when we develop a national commitment to attack segregation on a metropolitanwide basis.

I think my colleagues will recognize that the courts are moving steadily in this direction. The recent Pontiac and Detroit, Mich., school segregation cases undeline that point. And I would say to my colleagues as well, that in deciding these cases the courts are not permitting the very moderate timetable incorporated in this amendment, nor are they offering the substantial financial aid this amendment authorizes.

I urge adoption of this amendment.

The CHAIRMAN pro tempore. Do any of the remaining listed Members on the limitation of time desire to speak to the amendment offered by the gentleman from New York (Mr. BADILLO)?

The question is on the amendment offered by the gentleman from New York (Mr. BADILLO) to the amendment offered

by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BADILLO. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I yield to the gentleman from Michigan for the purpose of offering an amendment.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD TO THE AMENDMENT OFFERED BY MR. PUCINSKI

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD to the amendment offered by Mr. PUCINSKI:

Page 2, before the period at the end of line 5, insert the following:

": *Provided*, That for the fiscal year ending June 30, 1972, and each subsequent fiscal year, no funds are authorized to be appropriated to carry out the provisions of this title for any fiscal year in which the funds appropriated for any program authorized by the Elementary and Secondary Education Act of 1965 and Public Law 81-874 are not at least equal to the funds appropriated for such program for the fiscal year immediately preceding"

Mr. WILLIAM D. FORD. Mr. Chairman and members of the Committee, this amendment is cosponsored by my colleague the gentlewoman from Hawaii (Mrs. MINK).

POINT OF ORDER

Mr. BOW. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN pro tempore. The Chair would indicate that the point of order comes too late.

Mr. BOW. Mr. Chairman, I was on my feet seeking recognition.

The CHAIRMAN pro tempore. The Chair did not notice the gentleman, but the Chair will agree that the gentleman was on his feet seeking recognition.

The gentleman from Ohio will state the point of order.

Mr. BOW. Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, under the rule that was adopted, this amendment invades the rights of another committee.

This amendment is an invasion of the rights of the Committee on Appropriations under section 11, clause 2. It will be noted that the amendment, as offered by the gentleman from Michigan, provides that funds can be appropriated for programs authorized under the elementary and secondary education act of 1965, which is not the act upon which we are working and Public Law 81-874, providing they are not at least equal to the funds appropriated for such program for the fiscal year immediately preceding

By this amendment there is an attempt to direct the Committee on Appropriations as to what their appropriations shall be in the next fiscal year. Therefore, there is no question but what this is an invasion into the prerogatives of the Committee on Appropriations by designating the appropriations that must be had.

Further, under section (c) where funds are appropriated under this section, they shall remain available for obligation for 1 fiscal year beyond which they are appropriated.

There again there is an invasion into the rights of the Committee on Appropriations by an amendment here which states the obligation for the fiscal year beyond that for which they are made.

Mr. Chairman, this is within the jurisdiction of the Committee on Appropriations and I submit it is subject to a point of order.

The CHAIRMAN. Does the gentleman from Michigan (Mr. WILLIAM D. FORD) desire to be heard on the point of order?

Mr. WILLIAM D. FORD. Yes, Mr. Chairman.

Mr. Chairman, I believe the gentleman is alluding to something that is not in the amendment, in reading from the Pucinski original bill. I can understand the confusion.

There has been a little fancy footwork. Mr. PUCINSKI did not take out of his amendment the paragraph that you referred to so you probably should have made the point of order against his amendment because it has the second paragraph which you describe in it. My amendment does not.

However, since the gentleman made a point of order as to that part of the former Pucinski bill which is in my amendment, I would like to point out to the House that the House adopted this language as a part of the bill when it was before the House in December 1970, and it did so by a vote of 2½ to 1.

It is very clear from what the gentleman has said—and Members can find, if you will look in the CONGRESSIONAL RECORD to refresh your memory, the discussion the gentleman participated in on the floor the other day—that notwithstanding the protestations of the President with respect to no intention to raid title I funds, impact aid funds, for the purpose of funding this bill, that that does not seem to be the intention of at least some members of the Appropriations Committee.

This is not a limitation on the actions of the Appropriations Committee. This is a limitation specifically on the authorization contained in this bill.

The special rule under which the higher education bill is being considered on the floor, as I understand it, carries the unique provision that says in effect that if a provision of the bill, or if an amendment were offered, if offered as a separate bill, and it would be assigned to a different standing committee than the Committee on Education and Labor, then a point of order would lie against such an amendment or provision in the bill. As a matter of fact, if the language of my amendment were offered as a separate proposition, it would have to come to the Committee on Education and Labor, because it deals entirely with conditions under which the authorization contained in this bill can go forward.

I would like to point out that every authorization, not only in our bills, but in every legislative bill that comes before the House, is a limitation on the Appropriations Committee. The Appropriations Committee can only appropriate such sums as are within the limitations set by the authorization and only for the purposes set forth in the authorizations. My language intends to limit the effect of the authorization of this bill by saying that that authorization shall not become operative until such time as title I and the impact program are funded at the same level as the year before, thereby being referred to by some people as a hostage amendment to indicate that it is not our intention but in fact it is our—it is not our intention to diminish these programs but in fact it is our intention to follow the suggestion of the President that any additions put in the desegregation bill be new funds and not be taken from the on-going Federal aid program.

Mr. PUCINSKI. Mr. Chairman, a parliamentary inquiry. Is it in order to point out, in commenting on the statement of the gentleman from Michigan, that the Secretary has assured the committee and the House that no dollars will be taken from any existing educational program and that whatever money is appropriated will be new money?

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. GERALD R. FORD) desire to be heard?

Mr. GERALD R. FORD. Yes, I do, Mr. Chairman. I would like to make one short, simple statement. I would hope that the Chair will sustain the point of order raised by the gentleman from Ohio. If the Ford amendment is approved, the net effect is that the Committee on Appropriations in all subsequent years during the life of this legislation will be required to maintain a certain level of appropriation. That being true, it is a clearcut invasion of the prerogatives and the jurisdiction of the Committee on Appropriations, and because the rule specifically makes points of order available where there was an invasion of another committee's jurisdiction, it would seem very obvious that the point of order should be sustained.

The CHAIRMAN pro tempore. The Chair is ready to rule. The gentleman from Ohio (Mr. Bow) makes a point of order against the amendment offered by the gentleman from Michigan (Mr. FORD) on the ground that this is an invasion of the jurisdiction of another committee, specifically the Appropriations Committee. The Chair has examined the language of the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD) and it is clear to the Chair, that the amendment proposes an authorization formula and sets priorities. No funds are appropriated by this language. The Chair should also point out that those provisions of the rule under which this bill is being considered which related to points of order on jurisdictional questions pertained only to the committee substitute. The rule did not authorize such points of order against amendments offered from the floor.

The only remaining question for the Chair is whether the amendment is germane. It appears to the Chair that the amendment relates to the authorization of funds in Mr. PUCINSKI's amendment, and is thus germane.

Therefore, the point of order raised by the gentleman from Ohio is overruled by the Chair.

The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

(By unanimous consent, Mr. DELLENBACK yielded his time to Mr. BELL.)

Mr. BELL. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Michigan.

This is a mischievous amendment, meant not only to tie the hands of the administration, so that they cannot function either effectively or efficiently.

For example, the amendment refers to the word "program."

There are at least three possible interpretations of the word "program":

First. One "program" for instance—could be title I of ESEA—as a line item of appropriation.

Second. Another "program" could be—a specific named program within a "big program" such as a program within title I.

For example, the migrant program, which does not have its own line item appropriation.

Third. Still another "program" could be one that does not have a name appearing in legislation like—"Right To Read Program."

So, the claim that this amendment would only prohibit the President from taking money from ESEA or Public Law 874 and putting it in this legislation, is invalid for two reasons:

First. First, if it intended just to prohibit the President from taking funds from ESEA or Public Law 874, the amendment should refer only to total appropriations for ESEA and impact aid.

But no, it refers to programs which could mean programs under these two acts.

It could mean that anytime anyone of the programs under these two acts, however unimportant, was cut or shifted to a more worthwhile project, that the whole Emergency School Aid Act would be disastrously affected.

It might also mean that a nonmeritorious program must be funded to the detriment of some more desirable program which needs money.

It also might commit Congress in advance to a promise to fund a program even if such funding would be unwise.

Although I suspect that the intent of the authors of this amendment is to limit the President or this administration by this language. I think in reality they are limiting the Appropriations Committee and the Members of this House.

Obviously, the President does not appropriate money, only the Appropriations Committee and the Congress can do that.

Mr. Chairman, it is simply bad legislating to tie one authorization to another bill's appropriation.

It would result in confusion, duplication and inefficiency in administration.

It would set a bad precedent.

The gentleman from Michigan has opposed the legislation from the beginning.

I believe the amendment is mischievous and its results may not only damage the passage of the legislation, but may also, if passed, cause confusion and inefficiencies in its administration.

I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD), to the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and on a division—demanded by Mr. BELL—there were—ayes 72, noes 158.

Mr. WILLIAM D. FORD. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. BADILLO TO THE AMENDMENT OFFERED BY MR. PUCINSKI

Mr. BADILLO. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO to the amendment offered by Mr. PUCINSKI:

At page 32, line 21.

Strike all of Section 2218, "Neighborhood Schools".

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I yield to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, this amendment is to strike from the Pucinski amendment the provision that has to do with neighborhood schools. Of course, the gentleman from Illinois (Mr. PUCINSKI) has been talking about his amendment as the Emergency School Aid Act of 1971, and it is not that at all, because in the committee that part which had to do with neighborhood schools was voted down. The amendments he has added were voted down in the committee. After having gotten the busing amendment, what the gentleman from Illinois (Mr. PUCINSKI) seeks to do now is to put in a provision that would permanently recognize the neighborhood schools. So it would seem to say that the court can neither engage in busing nor in any way change the neighborhood school concept.

Of course, that is really dreaming, because that is saying we are going to ignore totally the courts and we are going to ignore totally the Constitution of the United States.

It is unrealistic enough to pretend that there is going to be no busing, because we all know regardless of what we do the courts are going to continue to order busing, and money is going to have to come from the local, State, and municipal treasuries.

What the gentleman from Illinois (Mr. PUCINSKI) is now seeking to put in here are those amendments which even his wildest dreams in the committee did not lead him to expect would be carried out.

I ask that the amendment be agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I believe the gentleman's amendment is an example of very fine and narrow technical distinction that looms very large for the future operation of the program.

Members may think we have already voted on this amendment. I take this time to indicate there is a very distinct difference. The amendment we voted on went to a program administered by the U.S. Commissioner of Education. If Members will note the amendment of the gentleman from Illinois very carefully, it refers specifically to the Secretary of Health, Education, and Welfare. I do not believe the Secretary of Health, Education, and Welfare desires to use these funds for busing, but if the gentleman's amendment is carried we will be in the position of prohibiting the Commissioner of Education from using funds for busing while allowing the Secretary of Health, Educaton, and Welfare, in this $1.5 billion program, to use funds for busing.

I suggest it is very important that this amendment be kept in.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I should like to point out this neighborhood school amendment has been carefully worked out in order to give strength to this legislation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. BADILLO) to the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The amendment to the amendment was rejected.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, we are operating an emergency school assistance program now under continuing resolution—Public Law 92–139—and have been for the past year or two.

My city of Austin a few months ago was given the questionable honor of being designated the first major city in the United States to be filed against by the administration on this mass busing and forced busing problem. This caused us a lot of problems, and we set about to do the best we could with it. We talked with HEW officials, who urged us to apply for these emergency funds, and as a result we applied for a grant in the neighborhood of $2.1 million. We got it approved on the local level. We got it approved on the regional level. We got it approved up here. Regional HEW said: "We will get you that money."

We waited and we waited, and finally 2 weeks ago Washington HEW said, "We are going to approve your application." Do you know what we got? We got $200,000. We got 10 cents on the dollar—10 cents on the dollar.

I say to you that these funds are needed, and mine in particular. But this 10 cents on the dollar is a great shock. It is not only a frustration but a shock. It has put my school district in a great disadvantage. I say to you somebody down the street, whether it is HEW or the Office of Management and Budget, ought to cough up with this money. Once they have encouraged us to apply, they should say, "We have a contract." We have tried to find out where the other

90 cents on the dollar has gone. No one knows. The regional office has promised to send someone to Austin to explain where and how the funds were cut. But they have not gone yet. We are still in the dark, our budget is in a critical condition because of it.

This same failure to perform is taking place all over the country. It is an inexcusable exercise. School districts are losing face with their Government.

The CHAIRMAN pro tempore. All time has expired. The question is on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and on a division (demanded by Mr. PUCINSKI) there were—ayes 157, noes 101.

TELLER VOTE WITH CLERKS

Mrs. MINK. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mrs. MINK. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mr. PUCINSKI, Mrs. GREEN of Oregon, Mr. QUIE, and Mr. PERKINS.

The Committee divided, and the tellers reported that there were—ayes 211, noes 159, not voting 61, as follows:

[Roll No. 359]

[Recorded Teller Vote]

AYES—211

Abbitt	Dorn	Lennon
Addabbo	Downing	Lent
Albert	Drinan	McClory
Alexander	du Pont	McCloskey
Anderson, Calif.	Dwyer	McCollister
Anderson, Ill.	Edwards, Ala.	McDade
Anderson, Tenn.	Eilberg	McFall
Andrews, N. Dak.	Erlenborn	McKevitt
Annunzio	Esch	McKinney
Archer	Eshleman	McMillan
Arends	Evans, Colo.	Macdonald, Mass.
Bell	Fascell	Mailliard
Bennett	Fish	Mathias, Calif.
Bergland	Flood	Mayne
Betts	Ford, Gerald R.	Melcher
Biaggi	Forsythe	Miller, Ohio
Biester	Fountain	Mills, Md.
Bingham	Fraser	Mizell
Boggs	Frelinghuysen	Monagan
Boland	Frenzel	Moorhead
Bow	Frey	Morse
Bray	Fuqua	Mosher
Brooks	Galifianakis	Murphy, Ill.
Broomfield	Garmatz	Myers
Brotzman	Gaydos	Nelsen
Brown, Mich.	Gibbons	Nix
Brown, Ohio	Goldwater	O'Konski
Broyhill, N.C.	Gonzalez	O'Neill
Buchanan	Grasso	Passman
Burke, Fla.	Gray	Pelly
Burke, Mass.	Green, Pa.	Pepper
Byrne, Pa.	Grover	Pettis
Byrnes, Wis.	Gude	Peyser
Caffery	Hammer-schmidt	Pickle
Cederberg	Hanley	Pike
Chamberlain	Harsha	Podell
Clark	Harvey	Poff
Clausen, Don H.	Hastings	Powell
Clawson, Del	Hawkins	Preyer, N.C.
Cleveland	Hays	Price, Ill.
Collier	Hechler, W. Va.	Price, Tex.
Collins, Ill.	Heckler, Mass.	Pryor, Ark.
Conable	Heinz	Pucinski
Conte	Henderson	Quie
Conyers	Hicks, Mass.	Quillen
Corman	Hillis	Railsback
Cotter	Hogan	Reid, N.Y.
Coughlin	Holifield	Reuss
Daniel, Va.	Horton	Rhodes
Danielson	Johnson, Pa.	Riegle
Davis, S.C.	Jonas	Robinson, Va.
Davis, Wis.	Jones, N.C.	Robison, N.Y.
de la Garza	Karth	Roe
Dellenback	Kazen	Rogers
Denholm	Keating	Rosenthal
Donohue	Keith	Rostenkowski
	Kemp	Ruth
	Kluczynski	Sandman
	Kyl	Sarbanes
	Satterfield	Stratton
	Scheuer	Talcott
	Schneebeli	Teague, Calif.
	Schwengel	Thompson, Ga.
	Shipley	Thomson, Wis.
	Shriver	Thone
	Smith, Calif.	Vanik
	Smith, Iowa	Veysey
	Spence	Waggonner
	Springer	Wampler
	Steele	Ware
	Steiger, Ariz.	Whalen
	Steiger, Wis.	Whalley
		Whitehurst
		Widnall
		Williams
		Wilson, Bob
		Winn
		Wolff
		Wydler
		Yatron
		Young, Fla.
		Young, Tex.
		Zwach

NOES—159

Abernethy	Gettys	Moss
Abourezk	Giaimo	Murphy, N.Y.
Abzug	Goodling	Natcher
Adams	Green, Oreg.	Nedzi
Andrews, Ala.	Griffin	Nichols
Ashbrook	Gross	Obey
Ashley	Hagan	O'Hara
Badillo	Haley	Patten
Baring	Hall	Perkins
Begich	Hamilton	Purcell
Bevill	Hanna	Randall
Blackburn	Hansen, Wash.	Rangel
Blatnik	Harrington	Rarick
Bolling	Hathaway	Rodino
Brademas	Helstoski	Roncalio
Brasco	Hicks, Wash.	Rooney, N.Y.
Brinkley	Howard	Rooney, Pa.
Burleson, Tex.	Hull	Roush
Burlison, Mo.	Hungate	Rousselot
Burton	Hunt	Roy
Byron	Hutchinson	Roybal
Camp	Ichord	Runnels
Carey, N.Y.	Jacobs	Ryan
Carter	Jones, Ala.	St Germain
Casey, Tex.	Kastenmeier	Saylor
Celler	King	Scherle
Chappell	Kuykendall	Schmitz
Chisholm	Kyros	Scott
Clancy	Landgrebe	Seiberling
Clay	Landrum	Shoup
Collins, Tex.	Latta	Sikes
Colmer	Leggett	Slack
Crane	Link	Snyder
Daniels, N.J.	Long, Md.	Stanton, James V.
Delaney	McCormack	Steed
Dellums	McDonald, Mich.	Stokes
Dent	McEwen	Stubblefield
Devine	McKay	Sullivan
Dickinson	Madden	Symington
Dingell	Mahon	Terry
Dow	Mann	Thompson, N.J.
Dulski	Mathis, Ga.	Tiernan
Duncan	Matsunaga	Ullman
Eckhardt	Mazzoli	Van Deerlin
Edmondson	Meeds	Vigorito
Edwards, Calif.	Michel	Waldie
Evins, Tenn.	Mikva	Whitten
Fisher	Minish	Wilson, Charles H.
Flowers	Mink	Wyman
Flynt	Minshall	Yates
Foley	Mitchell	Zablocki
Ford, William D.	Mollohan	
Fulton, Tenn.	Montgomery	
Gallagher	Morgan	

NOT VOTING—61

Aspin	Hébert	Ruppe
Aspinall	Hosmer	Sebelius
Baker	Jarman	Sisk
Barrett	Johnson, Calif.	Skubitz
Belcher	Jones, Tenn.	Smith, N.Y.
Blanton	Kee	Staggers
Broyhill, Va.	Koch	Stanton, J. William
Cabell	Lloyd	Stephens
Carney	Long, La.	Stuckey
Culver	Lujan	Taylor
Davis, Ga.	McClure	Teague, Tex.
Dennis	McCulloch	Udall
Derwinski	Martin	Vander Jagt
Diggs	Metcalfe	White
Dowdy	Miller, Calif.	Wiggins
Edwards, La.	Mills, Ark.	Wright
Findley	Patman	Wyatt
Griffiths	Pirnie	Wylie
Gubser	Poage	Zion
Halpern	Rees	
Hansen, Idaho	Roberts	

So the amendment was agreed to.

Mr. VANIK. Mr. Chairman, the higher education system in America faces a financial crisis which must be acknowledged and corrected. For clear awareness of this crisis, the Committee on Education and Labor should be commended on the job it has done in developing a solid legislative package to strengthen the financially troubled higher education system in America.

In the past 10 years, our Nation's student enrollments have increased at an unprecedented rate. Research and training programs have been expanded to meet acute national needs in the physical and social sciences. But in the process, the physical and human resources of colleges and universities have been burdened to meet their new and heavy commitments. Costs have risen sharply, while the recent economic decline has reduced the capability of private and public support for higher education to meet these costs. Most of our institutions will face serious financial problems, if they continue to function at just the present level of operations.

Several outstanding institutions of higher learning in my district are in financial trouble or face financial shortages this year. Case Western Reserve University needs about $100,000 to cover the undergraduate supportive services for this present school year. This fine university also needs another $60,000 to cover what the Economic Opportunity grants failed to cover in student aid.

At John Carroll University this fall, the total number of students who needed financial assistance was 562, but only 216 of these students received aid. This means that 61.6 percent of the total number of students with need were receiving no financial aid at all. These students are all good students, who deserve help, and citizens we should help.

I have only mentioned the student assistance problems, but these universities also are in desperate need for institutional aid.

It is time to face the fact that it is not possible to provide equal educational opportunity to American young people without paying the cost—not just the tuition and maintenance cost to the students but also the expanded cost of future educational needs.

Ohio has not received the educational aid from the Federal Government that properly reflects its population rank as sixth among the 50 States. The following table gives the specific statistics. In column three the unequitable distribution may be seen right down the line in many types of Federal aid to education in Ohio.

It is true that Ohio has devoted inadequate resources to educational programs. Approximately $400 or 18 percent less is spent per student in Ohio than in the other 49 States. The Ohio private educational institutions spend $500 less per student than other States. Our present Governor, John J. Gilligan, is desperately trying to correct this situation—but Federal aid is needed.

There has been a lack of State and Federal aid, and as a result the educational output of Ohio in relation to other comparable State schools has been woefully deficient. The other big 10 States have granted 18 percent more bachelor degrees per capita, and 116 percent more doctoral degrees per capita. Also, for each student enrolled in State colleges in Ohio, compared with other big 10 States, Ohio was next to last in the ratio of faculty to students, last in professional library staff, and last in the number of National Merit Scholars enrolled. Ohio may often have a great Big Ten football team—but in education it too often comes in last.

TABLE I.—POPULATION AND HIGHER EDUCATION ENROLLMENTS, REVENUES, AND EXPENDITURES—OHIO AND 50 STATES PLUS THE DISTRICT OF COLUMBIA, FISCAL YEAR 1969

	Ohio	United States (50 States plus District of Columbia)	Ohio versus United States (percent)	United States less Ohio
Population (thousands) [1]	10,591	199,861	5.3	189,270
Enrollments: [2]				
Head count, public	250,130	5,414,934	4.6	5,164,804
Head count, private	92,520	2,069,139	4.5	1,976,619
Total, head count	342,650	7,484,073	4.6	7,141,423
Full-time equivalent, public	207,875	4,382,637	4.7	4,174,762
Full-time equivalent, private	81,171	1,763,245	4.6	1,682,074
Total, full-time equivalent	289,046	6,145,882	4.7	5,856,836
Revenues (in thousands of dollars): [3]				
Total, except auxiliary enterprises:				
Public institutions	$444,462	$10,211,245	4.4	$9,766,783
Private institutions	211,239	5,972,658	3.5	5,761,419
Total	655,701	16,183,903	4.0	15,528,202
Total Federal support (except auxiliary):				
Public institutions	49,576	2,017,409	2.5	1,967,833
Private institutions	31,134	1,497,537	2.1	1,466,403
Total	80,710	3,514,946	2.3	3,434,236
Federal education and general support:				
Public institutions	44,885	1,551,825	2.9	1,506,940
Private institutions	27,107	952,675	2.8	925,568
Total	71,992	2,504,500	2.9	2,432,508
Federal student aid:				
Public institutions	4,691	175,352	2.7	170,661
Private institutions	4,027	126,552	3.2	122,525
Total	8,718	301,904	2.9	293,186
Expenditures (in thousands of dollars): [3]				
Educational and general:				
Public institutions	356,138	8,914,742	4.0	8,558,604
Private institutions	189,035	4,920,247	3.8	4,731,212
Total	545,173	13,834,989	3.9	13,289,816
Student aid:				
Public institutions	16,882	367,433	4.6	350,551
Private institutions	17,728	447,322	4.0	429,594
Total	34,610	814,755	4.2	780,145
Major public service programs:				
Public institutions	52,937	689,733	7.7	636,796
Private institutions	63	602,923	0	602,860
Total	53,000	1,292,656	4.1	1,239,656

[1] U.S. Bureau of Census, "Pocket Data Book, U.S.A. 1969," p. 41.
[2] National Center for Educational Statistics—Fall Enrollment in Higher Education 1969, pp. 45, 46, and pp. 69, 70; FTE calculation assumes that 1 part-time enrollment=0.40 full-time equivalent.
[3] NCES—Financial Statistics of Institutions of Higher Education, 1968–69, pp. 16, 26, and 50, 57.

In the new legislation before us, H.R. 7248, there are general provisions for aid to both students and the States. I strongly support these provisions. The 59 public and 67 private campuses in Ohio, with their 300,000 students, would all receive support under this bill.

This bill will directly attack the national financial crisis in higher education which affects private, State, and local schools.

The direct Federal grants proposed under H.R. 7248 would provide, on the average, $125 per student to all private and public institutions, while providing proportionately higher support to smaller, often struggling, institutions.

At the current time, the major source of Federal support to higher education has been through research grants and programs. This has been wonderful for those institutions that have specialized in research; however, the benefits to instructional programs have been indirect and not generally available to many institutions of higher education.

As the chart has indicated, Ohio which serves about 5 percent of the Nation's students, has typically received about 2.5 percent of the Nation's Federal aid to higher education. In H.R. 7248, direct Federal grants to the institution represent about a 25-percent increase in Federal funds or $900 million nationally. In Ohio this would mean over $40 million and would represent a 50-percent increase in the level of Federal aid to schools in Ohio. The smaller institutions, which have historically been neglected by Federal funds, will benefit greatly by the provision that will allow $300 for each of the first 200 enrolled students and $200 for each of the next 100 students enrolled. Also, this bill will provide for a 5-year allotment of funds for smoother growth and better planning.

This bill would authorize the first Federal program of aid directly to public and private institutions of higher education on a per capita student population basis. The Nixon administration originally opposed any institutional aid program. The committee bill which provides direct institutional aid is a great step forward in congressional responsibility for education for all students.

The committee bill also provides an emergency institutional assistance provision which will authorize a 2-year program of $150 million per year for emergency relief to institutions in the greatest financial difficulty.

The Carnegie Commission on Higher Education has predicted that enrollment in American colleges will double by the year 2000. This increase of between 16 and 17 million in the National student population means that the Nation will need about 300 new institutions, two-thirds of them 2-year colleges in metropolitan areas. The reports of the Carnegie Commission endorse strong support for new colleges, recommending 175 to 235 2-year community colleges and between 80 and 105 4-year institutions. The majority of these will be needed in the crowded areas of the cities. H.R. 7248 is not the final solution to the problem of establishing new institutions, but it is a very strong step in the right direction.

Dyke College in my district has been refused aid by the Division of Student Assistance of the Office of Education for an elaborate and needed work-study program for 1972. Dyke College has much to offer to young people and adults who are trying to tune in to the system. As a baccalaureate degree-granting institution with an emphasis on business curriculums, it is in an outstanding position to help with inner city education in downtown Cleveland. Many students who should attend this university are excluded because of a lack of funds. This university will benefit greatly from the small university provisions of this bill.

I would also like to state, for the record, that I have supported the two attempts to override the President's veto of educational aid funds in 1970. I believe that those vetoes were shortsighted and unnecessary. A bill such as H.R. 7248 can help provide corrective action for several years of inadequate Federal support to higher education.

Education is investment in America's future; and Ohio needs a fair portion of that investment to catch up with the rest of the Nation.

As the financial crisis spreads throughout the country affecting every type of institution of higher learning, it would be tragic if we do not expedite the passage of this bill and fail to direct our priorities to support of higher education. With the onsurge of the technological era, America's and Ohio's future rest in the hands of its "trained citizens."

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope that, with strengthening amendments, this bill H.R. 7248, the Higher Education Act of 1971, will be overwhelmingly approved by this House.

In our consideration of this vitally important measure I do not think we could have any better guidance and inspiration for our continuing and final legislative action than the admonition of the President himself when he said, in a speech back in October of 1968 when he was a candidate, and I quote:

When we talk about cutting the expenses of government, either Federal, State or local, the one area we can't shortchange is education.

In essence, this bill in intended and designed to insure, as much as it is humanly possible to do so, that the national educational progress of this coun-

try is not unwisely and imprudently shortchanged.

Mr. Chairman, the various titles and provisions in this bill have been patiently and fully explained by the knowledgeable and dedicated Members, on both sides, of the esteemed House Committee on Education and Labor and there is no need for any additional repetition at this time. Beyond extending most of its Federal aid to higher education programs throughout fiscal 1976, the bill, among other major features, establishes a new program of general assistance to colleges and universities; strengthens and expands, to include more consideration for middle-income families, student assistance; creates a Bureau of Occupational Education in the Office of Education; increases funds for library resources and research and the training of librarians; extends the Education Professions Development Act; initiates a National Institute of Education to review and make recommendations in respect to our entire approach to the learning process in this country and projects a most commendable procedure whereby the Comptroller General will constantly conduct examinations and evaluations of particular educational projects and programs, with pertinent reports to the Congress, so that Members of Congress can be given adequate and impartial information on which to continuously review, judge, and act on their effectiveness.

Mr. Chairman, there is no more serious question facing our people today than the financial crises affecting our higher institutions of learning and the imperative necessity of granting adequate Federal assistance to them to enable them to carry out their full educational commitment to this country.

There can be no doubt of the urgent necessity to strengthen our programs of student assistance and I am particularly gratified that a greater measure of concern and consideration, which I have long recommended, is being given to the parents of middle-income families, who are actually faced with real hardships, these days, in trying to finance the higher education of their children. Our middle-income group is the one that shoulders the proportionately heaviest burden of taxes and the patient members of this group have been too long and too much excluded from participation in Federal programs they are called upon to underwrite.

Another very wholesome provision in this bill infuses occupational education and counseling with the responsibility of job placement, into the regular elementary and secondary school systems, on an equal footing with traditional academic education. This cooperative educational effort to particularly prepare grade and high school students for gainful employment is, in my opinion, long overdue and represents a very earnest and timely attempt to meet one of the very top priority educational needs of our time.

Mr. Chairman, no one would pretend that this bill is a perfect legislative instrument that will completely solve, now and forever, all of our national educational problems and difficulties. However, it does represent the best compromise projection that could be reached by the most diligent and dedicated members, on both sides, of the very highly respected Education and Labor Committee; it has the endorsement of most of the recognized educational authorities and associations throughout the country and it most certainly constitutes a prudent investment in the basic resources of this Nation. As the most progressive legislative educational proposal that has been placed before the Congress in modern times I believe it merits the resounding approval of this House, in the national interest, and I again urge your overwhelming adoption of it.

Mr. PUCINSKI. Mr. Chairman, I rise in support of H.R. 7248 and especially those provisions authorizing a new ethnic heritage studies program and a new occupational education program. Bills on these programs were considered by the General Subcommittee on Education, which I serve as chairman, before they were added in committee as titles of H.R. 7248, the Higher Education Act of 1971. It is understood that jurisdiction over both the ethnic studies program and the occupational education bill will continue under the general subcommittee in education even though they are being considered as part of this bill.

The ethnic heritage studies program, contained in title XV of the bill, authorizes grants to colleges and universities for the development and dissemination of curriculum materials on ethnic groups for use in elementary and secondary schools. For fiscal year 1972, $20 million is authorized, and for fiscal year 1973, $30 million is authorized for this purpose.

The basic objective of this new program is to encourage among children of different ethnic groups a sense of positive identity about their own ethnic background as well as the background of others and the part each ethnic group had with the American past and also to provide them with an understanding of the nature of our society as a pluralistic society. Hopefully, this will lead us to discard the "melting pot" theory and to recognize what has always existed in our country: an amazing mosaic of diverse ethnic groups, each with its own characteristics, but each lending strength to the unified whole which forms the country.

An awareness of this fact and of its effects on our society is gradually coming to the forefront. Recently, the White House Conference on Youth, the National Advisory Council on the Education of Disadvantaged Children, and the National Commission on the Causes and Prevention of violence have all recognized that American youth must be made aware of their diverse ethnic origins and must be taught to respect the contributions to our history and society made by all groups forming the country.

The program contained in the bill before us would encourage this awareness by funding the development and dissemination of curriculum materials on the many ethnic groups within the country. These materials would be available for use in elementary and secondary schools at the discretion of local school districts.

As author of the original bill and as chairman of the subcommittee which reported the bill, I want to emphasize that this program is meant to be as broadly based as possible. In other words, as the committee report on H.R. 7248 states:

> The need for ethnic heritage studies curriculum materials is not limited to the disadvantaged child.

These materials are not to be limited only to the black or brown minority groups. Although curriculum materials on these groups can be funded, this program is meant principally to develop materials on the many groups which are not presently being assisted. The reason for this emphasis on other groups is that there are presently many sources of funds for materials on blacks, Chicanos, and Puerto Ricans, including a number of already funded programs in the Office of Education. The proposed Emergency School Aid Act would also make substantial funds available for funding such programs.

I also want to emphasize that individual projects can be funded for only one particular ethnic group or for the development of intercultural materials and materials on related ethnic groups, but the principal thrust of this program is for individual projects to develop materials on identifiable individual ethnic groups.

Lastly, I want to emphasize that the Secretary is charged with the responsibility under the bill to assure that every grantee must use all available resources in developing its materials. These resources include local ethnic groups, ethnic museums, ethnic fraternal organizations, and colleges and universities, particularly associated with one or more ethnic groups. The grantees must use these resources to the maximum extent possible which means that they must seek the assistance of these groups and institutions wherever located in the country.

The second new program is contained in title XVI, the Occupational Education Act of 1971. This program is based on a bill introduced earlier this year by myself, Congressman AL QUIE, and a number of other Members.

The provisions of the Occupational Education Act results from the continuing oversight which the General Subcommittee on Education has been conducting on vocational and technical education. That oversight has shown that there are two major impediments to effective job preparation in our schools. These are an overemphasis on academic education in our elementary and secondary schools and a lack of good vocational programs in our postsecondary institutions.

The bill before us would help to correct these two deficiencies by authorizing funds for the introduction of occupational preparation, counseling and placement in elementary and secondary schools so that students can develop a better appreciation for vocational education, and for the improvement and expansion of postsecondary occupational courses. The bill authorizes for these purposes $100 million for fiscal 1972, $250 million for fiscal 1973, $500 million for

fiscal 1974, and such sums as may be necessary for each year thereafter.

During the first year of operation of this program, 80 percent of the funds would be available for grants to the States to assist them in organizing broad-based agencies to administer this program and in planning for its implementation. A State would receive two grants during the first year: one to assist in establishing the administrative agency and the second to assist in conducting the planning. The remaining 20 percent of the funds would be available during the first year to the Commissioner of Education to assist the States in establishing these agencies and in conducting their planning.

It is expected that in this planning each State will consider its needs for postsecondary education and for career development; and, all other factors being equal, each State should give the same emphasis in its planning to the introduction of career concepts into its elementary and secondary schools as it does to its improvement and expansion of postsecondary education. Furthermore, if a particular State has a well-developed postsecondary vocational program, it is anticipated that that State will give almost all of these funds to the introduction of career concepts into elementary and secondary schools.

In the second year of operation under the bill States would be eligible to receive grants for the implementation of their plans. These grants, however, would only be available to those States whose administrative agencies and plans have been approved by the Commissioner of Education in the year before. In this second year and in the succeeding years, almost all the funds will go for the implementation of these plans, for the actual operation of programs. The bill, however, has left discretionary authority in the Commissioner of Education to allow use of some of the funds available to a State for support of its administrative agency and for further planning.

The Occupational Education Act also improves the Federal administration of vocational and manpower programs. First of all, the bill places responsibility upon the Secretary of Health, Education, and Welfare, to coordinate all manpower and manpower related programs and to upgrade the importance of manpower training and vocational education within the Department.

Second, the act creates a Bureau of Occupational Education. This Bureau will be the agency within the Office of Education for the administration of the Vocational Education Act, the Manpower Development and Training Act, and related acts. The bill specifies that training and vocational education within occupational, vocational, and technical education in community and junior colleges must be placed in this Bureau and that all programs under the Vocational Education Act of 1963, as amended in 1968, are to be administered by this Bureau. These programs clearly include vocational research—part C—and curriculum development—part I of the act. The committee has made these specifications because it fears that as in the past the Office will spin off vocational programs to other bureaus and these bureaus will place them at the bottom of their priorities. An example of this is the administration by the Bureau of Educational Professional Development of part F of the Educational Professions Development Act of 1968. The Bureau has not only actively campaigned against the funding of this part, but has also downgraded the training of vocational teachers in its administration of other parts of the act.

The Occupational Education Act also contains provisions requiring that 10 supergrade positions must be placed within this new Bureau. As of October 18 there were only four supergrades in the present Bureau of Vocational and Technical Education while 55 positions were available within the entire Office of Education. I believe that the only way the Office is going to give fair consideration to the occupational education needs of the children of this country is to be forced by legislation to upgrade the Bureau of Vocational and Technical Education and to staff it with high caliber personnel.

Mr. HARRINGTON. Mr. Chairman, I wish to give my wholehearted support to the Higher Education Act of 1971.

The system of higher education in America faces a serious, if not desperate situation. The problem is a matter of finances. While college enrollments have been increasing dramatically, funds available to schools have been shrinking, and many schools are facing fiscal crises.

The Higher Education Act of 1971 is an important and effective step in solving the financial problems of America's institutions of higher learning.

American colleges and universities have not avoided the rising costs of the age of inflation. They have been among the first to feel the pinch of austerity that the Vietnam war has created in government spending in the domestic sphere. And now the current recession is drying up private contributions as well.

Although our State universities have provided a fine education to thousands, small colleges have also played a vital role. The effects of the recession have been especially disastrous to the private colleges and universities which rely almost wholly on tuition for their operating expenses. As a result these schools have often priced themselves out of the market.

Diversity has been one of the best features of the American system of higher education which we have always been so proud of. Without immediate and direct Government aid, many of these small private colleges will go under and our educational system will be much the poorer for that.

The bill under consideration would for the first time authorize general assistance to institutions of higher learning, both public and private. The $955 million would be a first step in alleviating the present crisis. In addition the bill authorizes a crucial $150 million per year in emergency aid to those schools in the worst financial distress.

Rises in tuition and cutbacks in school sponsored student aid have made it harder for needy candidates to get a college education. Nothing is more clearly in the national interest than equal educational opportunity. Our greatest resource as a nation is our people. The better educated those people are, the more valuable the resource. It is in our interest to make sure that every child gets the education he or she needs to develop to the best of his abilities.

It is even more important in the interest of justice to insure equal opportunity in education. Education is the surest vehicle for the poor and the underprivileged to advance.

The Higher Education Act of 1971 would extend for 5 years key programs in the area of equal educational opportunity.

Especially important to me is the college work-study program which this bill extends and modifies. Work-study not only gives a student an opportunity to earn his education and avoid the burden of future loan payments, it also can provide essential services to the school or other community organizations. Often, however, schools have to cut services to the bare minimum, thus depriving the student of the opportunity to contribute to the cost of his education. Only the Federal Government has the resources to sponsor this kind of work opportunity. I think that this has been one of the most successful of Federal aids to education. The present bill would for the first time allow half-time students to qualify for this aid.

A new program similar to the work-study program is the cooperative study program. This too provides aid to students in return for part-time work. In this case, the work would be chosen for its educational value. Students would work for business and/or community service organizations.

The bill would also provide a 5-year extension of the equal opportunity grants and the guaranteed student loan programs. Equal opportunity grants would be increased from $1,000 to $1,500 and would be made available to half-time students. The guaranteed student loan program is most important. Work-study and grant programs are not large enough and comprehensive enough to insure a college education to all who are qualified. The loan program therefore helps those who do not qualify for the other programs or supplements inadequate funds available in the other programs.

I applaud the youth camp safety provisions of the bill. As I said before, our children are our greatest national resource. We must keep these children healthy. Summer camps are places of activity that, on the whole, are wholesome for the young. But these activities can also be dangerous unless properly supervised in safe and proper facilities. At this time there are no Federal safety standards and no enforcement. Title 19 of the bill rectifies this situation.

More students than ever now are seeking higher education. The number will continue to increase in the future. Because facilities cannot be constructed overnight and qualified faculties take years of careful training, it is impera-

tive that we begin to plan for future needs immediately.

Long-term planning seldom happens in our system of government. That is why I am particularly pleased with the provisions of this bill which lend Federal aid to the long-term planning and development of higher education in the United States. The Institute of Education, created by this legislation, is chartered with the idea of examining the initiatives that the Nation must undertake in maintaining an excellent system of higher education. The institute will be charged with examining the role of vocational training, professional training, adult education, 2-year colleges and full 4-year colleges. To help in exercising that function critically, the institute has been made relatively independent of the Federal agencies that already deal with education and reflect existing and sometimes outworn beliefs.

The committee report states that we will need 250 million square feet of additional floor space, at a cost of $10 billion, by the end of this decade. Steps must be taken immediately to meet this demand. Fortunately, the Higher Education Act provides funds for this purpose. It provides grants for developing institutions, grants and loans for expansion of graduate facilities, special funds for the development and expansion of technical schools and junior colleges, and funds to States for comprehensive planning of higher education facilities.

The Higher Education Act of 1971 extends some of the most effective and popular programs of Federal aid to education. It creates similar new programs which have an obvious chance of success. I urge my colleagues to pass this bill and defeat its crippling amendments.

Mr. BIAGGI. Mr. Chairman, I support the amendment offered by the gentleman from Illinois (Mr. PUCINSKI) to provide our Vietnam veterans with a greater opportunity to educate themselves.

Our veterans are coming back from this terrible war apparently unwanted and at times condemned. Many have drug habits that must be cured, but no facilities are available. Others seek jobs and find the market is closed to them. This amendment will help encourage those who wish to further their education or upgrade their skills to do so.

The aftermath of World War II gave rise to the GI bill which is still in effect today. This Nation recognized a need to repay its fighting men for the excellent job they did in defeating our enemies at that time.

While the current war is the subject of a great deal of public criticism, we should in no way transfer that criticism to the soldier who must fight that war. These men were brave nonetheless. They fought in defense of this country and its principles.

Now when they are in need of an uplifting we should do everything possible to say that we appreciate their efforts in Vietnam. This amendment will mean a great deal to these veterans. It was passed over in committee, but I feel strongly that it should not be passed over again today. Let us lend a helping hand to the vet. I urge adoption of this amendment.

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 7248, the Higher Education Act, which we now have before us. Education is the prime means of developing human resources necessary in this fast moving age in which we live and I feel that the committee in making its recommendations to the House of Representatives should be congratulated upon the acceptance of this responsibility through the expansion not only of the various programs of the assistance for our colleges and universities and other institutions of higher learning, but also through special aspects of this legislation which will have a tremendously beneficial impact upon all levels of education from preschool to graduate work.

Federal aid to education really is nothing new. Since 1785 the number of Federal aid to education bills enacted by Congress approaches 200. The Morrill Act of 1862 established land-grant colleges. This was expanded in 1890 with payment of Federal funds to assist in the operation of these schools. The Smith-Hughes Act of 1917 provided Federal assistance to States for vocational education and I should interject here that I feel that the Occupational Education Act which is made a part of the bill we have before us is an appropriate expansion of this basic idea. In 1950 Public Laws 815 and 874, brought assistance to school districts in federally impacted areas. In 1958 we made a major advance in the adoption of the National Defense Education Act and many of us sitting here in the House of Representatives today had an active role in the passage of the Higher Education Facilities Act of 1963, the Landmark Higher Education Act of 1965, and the International Education Act of 1966, all of which we are extending under the proposals we have before us here today. I am proud of my role in the earlier legislative proceedings which resulted in the enactment of these three basic programs.

The improvements in these three programs plus the 1958 National Defense Education Act are extremely worthwhile and I believe represent a significant broadening of proven programs. There is no question but what we must continue our assistance to college and university students; must continue the expansion and improvement of our college libraries; must continue the Teacher Corps and other programs designed to improve teaching at all levels and must continue the development of adequate physical plants for our institutions of higher learning.

Without minimizing the importance of these continuing programs, I would like to emphasize today the provisions of this act which are innovative and I believe constitute a major breakthrough in our educational development at all levels.

First of all we have the general assistance to institutions of higher education. This is the most significant advance in college and university assistance in many years. Nationally, these allocations could amount to $1 billion next year, increasing to $1.25 billion by 1976. Two-thirds of the entitlement of an individual college would be based on full-time enrollment with the remaining one-third distributed on a cost-of-education basis related to the amount institutions receive in educational opportunity grants, work-study programs, and NDEA student loan funds. A special factor would provide added benefits to small institutions.

Pressures from inflation, rising costs, and spectacular increases in enrollment must be met and this is one way this can be achieved. Enactment of this program constitutes Federal acceptance of a responsibility for the financial well-being of the higher education community and recognizes the importance of these institutions as a national resource vital to the education of each succeeding generation.

In summarizing the problems of the higher education community, the committee in its report declared:

> The higher education community is now facing extraordinary change made difficult by acute financial distress.

Next I would turn to a program of particular significance to the Second Congressional District which I represent in California; namely, the establishment of a minerals conservation education program. Since 1887 Federal funds have supported agricultural research and training at university levels in each of our States. These have proven very beneficial to the agricultural industry. At the same time practically no attention has been given to the problem of mineral conservation and production and I think if we were to really appreciate the facts of the case we would find that our Nation is absolutely dependent on minerals for maintaining not only our standards of living but our very basic security. Without antimony we could have no batteries to start our automobiles. Without bauxite we would have no aluminum for aircraft, missiles, teakettles or house sidings and all the other aluminum manufactured goods. Without cobalt we would have no jet engines. Without copper our electrical energy system would be chaotic. Without tin we would be short of everything from cans to engine bearings.

In spite of the importance of these minerals for our Nation we are doing very little to train the scientists and engineers needed for this industry. A recent study indicated that there are 65,000 such scientists and engineers employed in the mineral fields. Even more recent statistics show that in 1970 there were only 120 bachelor degrees awarded in mineral engineering, the demand was three times that and the Bureau of Mines could have employed all of the 1970 graduates all by itself. The number of graduates are declining and the demand for their services will double in 5 years. The provisions which this act provides for the establishment and maintenance of a competent and qualified mineral resources conservation institute are essential if we are to reverse this trend.

Another section, I would like to mention specifically is title 16, the Occupational Education Act of 1971. As I indicated previously the Smith-Hughes Act of 64 years ago first brought the Federal Government into the role of assisting

local schools in the preparation of students to earn a living. This effort was broadened in 1963, and again in 1968, however, we are still facing very serious problems in that large numbers of students continue to leave our secondary schools completing their formal education and yet without any saleable skills. They just are not trained to hold a job and there is little wonder that these people who are still in their teens have little prospects for the future in a highly technical society other than welfare or crime.

One of the basic problems is that 80 percent of our secondary school students are enrolled in college preparatory courses and yet only 17 percent of these students ever achieve a degree. The result is that hundreds of thousands of people in high school have no clear-cut vocational goals nor do they have any opportunity to learn the vocational skills by which they can achieve these goals even if they were developed. The Amerl-Personnel and Guidance Association in its studies and reports to the committee made it very clear that there is a direct relationship between this deficiency and the current unrest and discontent which is being experienced on our high school and college campuses.

We are wasting a tremendous amount of human skills and therefore, I feel that the Occupational Education Act of 1971 and its programs of counseling and training at elementary and secondary school levels are of tremendous importance, not only will implementation of this act provide better counseling and better job preparation but I feel equally important, it will provide better placement programs for in the words of the committee:

> Schools must become much more interested in what happens to their students after they graduate. In other words, schools must become placement agencies for their students.

In summary there are 28 million people in this Nation between the ages of 18 and 24. More than 16 million of these are in the civilian labor force. They entered this force in many instances with a minimum of preparation and training as can be demonstrated by the fact that less than 2 million of these or one out of eight individuals have received any occupational preparation training prior to the time he entered the labor market.

Finally, Mr. Chairman, I mention one of the basic provisions of the act, title XIV, which creates a National Institute of Education. As the President has said:

> We are not getting as much as we should out of the dollars we spend on education.

In many instances, I feel that we are teaching the children of a space age with horse and buggy techniques.

We do not know all that we should about the science and technology of teaching. Today we spend three-tenths of 1 percent of our educational dollar on research. The man-years of research and development in the field of education total slightly over 5,000. Compare this with a defense research and development program covering 10 percent of our total investment or a health research and development program involving nearly 60,000 people expending 5 percent of our total health budget. Defense and health are important items, but is not education of equal importance? It is vital that we take appropriate steps to explore more fully the whys and wherefores of learning and teaching processes so that we can achieve more efficiencies and effectiveness in our schools. I believe it is and, therefore, give my full support to the National Institute of Education which would have the authority to carry on a broad range of research and development activities at every level of education, preschool through postgraduate school, within formal institutions of learning and in nonformal learning situations.

Mr. BOLAND. Mr. Chairman, I want to express my support for the Higher Education Act. All but a handful of this country's institutions of higher learning—schools ranging from humble little community colleges to the most celebrated universities—are beset with financial problems. Their plight, alarming for the past decade, now verges on desperation. Every step forward they have tried to take has been dogged by rising costs. Their students, too, are confronted by almost unprecedented financial problems: tuition rates are climbing beyond the reach of most American families.

The bill now before us would offer welcome relief. Indeed, it is hardly an exaggeration to say that the future of American higher education may hinge on the enactment of this bill.

Let me sketch out, just briefly, the background of the 1971 Higher Education Act.

Six years ago the Congress enacted legislation to strengthen higher education and broaden educational opportunity. This landmark bill, of course, was the 1965 Higher Education Act. Its record has been impressive. The assistance it offered has enabled our colleges to begin to expand community services and continuing education programs—programs that bring their own unique brand of enthusiasm to bear in resolving community problems. Colleges and universities have collected grant after grant to acquire needed library and research materials. Other grants answering a need equally pressing were set up for the establishment or expansion of programs of library or information science. Fellowships and traineeships, too, became possible. Special assistance goes to troubled institutions struggling to survive—predominantly black institutions, for example. Special grants to encourage cooperative arrangements among institutions, establish national teaching fellowships, and recruit the skills of retired teachers through professor emeritus grants have also been set up.

One major thrust of the 1965 act aimed at building the kind of comprehensive student aid program that would give every qualified high school graduate the opportunity for a postsecondary education. The effort made possible an expanded NDEA student loan program and a broader college work-study program. Two altogether new programs were initiated—a program of education opportunity grants, and one of federally insured and subsidized loans. These programs have been bringing higher education within the grasp of thousands. In fiscal 1971 alone, more than 560,000 students received NDEA loans. About 430,000 students took part in work-study programs, and 290,000 students showing exceptional financial need received educational opportunity grants. One million student loans were insured under the guaranteed student loan program.

Mr. Chairman, I am convinced that we should extend all these programs in our efforts to improve quality and opportunity in higher education. But we must do much more. We all know about the problems that have besieged our economy since enactment of the Higher Education Act 6 years ago. No institutions have been harder hit by inflation than colleges and universities. Costs have soared at a dizzying pace. But overall incomes, despite tuition increases, have lagged behind. Compounding the problem has been the dramatic increase in the number of students enrolled in our colleges and universities. It has been staggering: in 1960 about 3.6 million men and women were enrolled in slightly over 2,000 institutions of higher learning; a decade later enrollment had soared to an estimated 8.6 million students in 2,565 2- and 4-year colleges.

How have our colleges dealt with the students engulfing their campuses? They have been forced into making serious compromises with quality just to house and teach each yearly influx of students.

Many schools have been driven to deficit financing. At least four major studies carried out since last December have vividly outlined the financial problems of our colleges. A majority of our publicly supported colleges as well as our private ones are in major financial trouble or are headed for it.

How can the Federal Government help our institutions of higher learning to cope with this crisis? Based on testimony from everywhere in the higher education community, H.R. 7248 takes the best approach. First, the bill would extend for 5 years the categorical programs of aid under the Higher Education Act. It would, moreover, extend the provisions of the Higher Education Facilities Act—the legislation that has helped our colleges build both graduate and undergraduate academic facilities.

Still further, the bill would make significant changes in student aid programs. The educational opportunity grant program, now focused in the needy student, would make this focus still keener. The maximum grant would be increased from $1,000 to $1,500 a year—but renewal would not be automatic: A student would have to reapply each year as his need is reassessed. Half-time students, for the first time, would be eligible for these grants. Most important, perhaps, is the clarification of need. Contrary to proposals that would give the Federal Government a predominant role in determining student need, H.R. 7248 would treat need as an individual matter—case by case, student by student. It would provide the student financial aid officer with welcome guidelines to help

him assess need and draw up a tailored package of grant and loan money to meet best each student's situation. The financial aid officer would consider all relevant factors, not just family income, in arriving at a family's expected contribution.

An important change would be made, too, in the State allotment of student aid funds. The allotment already established for work-study funds seems to be the fairest, and H.R. 7248 would adopt this formula for the NDEA student loan program and the educational opportunity grant program as well. One-third of appropriated funds would be distributed on the basis of full-time enrollment in institutions of higher learning; one-third on the basis of a State's relative number of high school graduates; and one-third on the basis of the number of children under the age of 18 living in families with annual incomes of less than $3,000 a year.

Aside from expanding and refining programs of student financial aid, H.R. 7248 would take bold and new steps to restore financial strength to our colleges. It would authorize an interim 2-year program of emergency assistance to rescue those institutions nearest bankruptcy. It would also initiate a program in general institutional aid—the area of greatest need.

The administration, first opposed to any form of institutional aid, later changed its position to endorse a limited program of aid based on a cost-of-education formula. This approach would base aid solely on the number of federally assisted students enrolled at an institution. H.R. 7248 takes a broader and more realistic approach in allocating institutional aid. Obviously, Federal aid encourages more students, many from disadvantaged backgrounds, to attend college. We must acknowledge this fact. The need for institutional aid, however, is not limited to those institutions enrolling federally aided students.

H.R. 7248 attempts a distribution of institutional aid wide enough to offer real help. Two-thirds of appropriated funds would be allotted on the basis of student enrollments, the other third on the basis of the number of students receiving educational opportunity grants, work-study grants, and NDEA student loans. A special weighted factor would aid small colleges.

If the money crisis in higher education is a national one and I believe that it is, then any effective effort to alleviate it must be broad in scope. H.R. 7248 would not penalize those colleges that may not have large numbers of federally assisted students, but that may well be making their own efforts to provide student aid. The bill would reach the small college as well as the large institution, and the private as well as the publicly supported college.

Of course, Mr. Chairman, the institutional aid formula in H.R. 7248 is not perfect, nor is it the final or the best answer to higher education's financial crisis. H.R. 7248 wisely provides for the establishment of a 17-member National Commission on the Financing of Postsecondary Education. This commission would study and report to the Congress the impact of past and present support for postsecondary education. It would examine every aspect of the financial crisis in higher education, proposing solutions that would help yield better understanding and action at all levels of government.

I believe this legislation would meet the pressing needs of both colleges and students.

H.R. 7248 is "must" legislation for the 92d Congress.

Mr. Chairman, all of the schools of higher education in my area have expressed support of this landmark legislation. I ask unanimous consent to insert with my remarks some of the correspondence I have received including a very fine letter from the president of Mount Holyoke College, Mr. David B. Truman. I insert, also, a communciation from the Massachusetts Association of Student Financial Aid Administrators.

MOUNT HOLYOKE COLLEGE,
South Hadley, Mass., October 6, 1971.

Hon. EDWARD P. BOLAND,
House of Representatives,
Washington, D.C.

DEAR MR. BOLAND: I have recently had an opportunity to review the provisions of the Higher Education Bill that has recently been reported to the House by the Education and Labor Committee, and I am writing to express my strong hope that you will be able to support its most essential provisions.

For obvious reasons, I am particularly interested in the provisions of the Bill for general institutional support. The compromise formula in the Bill, which as I understand it, would base two-thirds of the support upon full-time equivalent students and the other one-third on the cost of educational allowances related to the size of the present federal student aid programs, is probably sensible. I am particularly pleased that at least the two-thirds related to full-time equivalent students will be seriously proposed to the House. I am familiar with the arguments on both sides of this question and have argued myself a bit with John Brademas about his enthusiasm for the allowance emphasis. His position is understandable, and I can see why one might want to argue for what amounts to a kind of voucher system. Nevertheless, I think the general institutional support idea related to full-time equivalent students has a merit that is not necessarily obvious. This is that it should permit a considerable number of institutions to avoid being totally at the mercy of the market place in what they do.

I do not support the idea that colleges and universities should be indifferent to the needs and expressed demands of the community and particularly of prospective students. Nevertheless, I worry about the number of institutions that will simply do whatever seems to be popular at the moment. The full-time equivalent student formula should permit a substantial number of institutions, such as this one, to take a strong stand for the the kind and quality of education that they believe to be necessary and to be strong enough to withstand the pressures of fashion that otherwise might destroy them. Fashion is no stranger to the educational world, and I confess that I am sometimes horrified at the amount of phony packaging that is being offered in order to attract students. The system as a whole will not be strengthened by offering added inducements to this kind of thing. It can be strengthened by making certain that institutions that choose to stand for something will be strong enough to be able to live through the cycles of fashion that are so evident.

As the House Bill has developed, I have been seriously concerned about some of the proposals with respect to the abolition of sex discrimination. I am not prepared to argue that fully co-educational institutions should be allowed to maintain a discriminatory quota system. I would argue that it is not the business of the Congress to say that an institution which prefers to remain a college for women or a college for men should be compelled to adopt co-education whether they wish to or not. The ten per cent proposal that is in the current House Bill is better than some that I have seen, but I have my doubts even about that one. In the first place, the case for universal co-education is far from certain. The literature increasingly suggests that for both young men and young women it may be extremely important for both intellectual growth and social maturity to have the opportunity to attend institutions that are dedicated to one sex or the other.

In the second place, a Bill that is aimed at assisting in the survival of colleges that are hard-pressed financially should not impose the capital and operating costs that would follow from compelling them to open their doors to both sexes. These costs are somewhat higher usually for a women's college which decides to admit men, but they are not inconsiderable in the reverse situation. When we are trying our best to use our resources in the most intelligent and the most efficient way possible, it would be a grave disservice for the Congress to compel us to spend money in order to adopt an educational policy, co-education, with which we may not agree.

Forgive me for making this letter so long. I get kind of wound up on this subject. If the occasion presents itself, I would be more than pleased to discuss the whole question with you in more detail.

With all best wishes.

Sincerely yours,

DAVID B. TRUMAN.

SPRINGFIELD COLLEGE,
Springfield, Mass., October 11, 1971.

Hon. EDWARD P. BOLAND,
House of Representatives
Washington, D.C.

DEAR CONGRESSMAN BOLAND: Along with the American Council on Education and other important organizations, I support HR7248, the Higher Education Act as developed by the House Education and Labor Committee. I know you will do all you deem appropriate to consider this bill carefully. I hope you will be motivated to support it in its present form.

Thank you so much.

Sincerely,

WILBERT E. LOCKLIN.

COLLEGE OF THE HOLY CROSS,
Worcester, Mass., October 8, 1971.

Representative EDWARD P. BOLAND,
House Office Building
Washington, D.C.

DEAR REPRESENTATIVE BOLAND: I respectfully request your support of HR 7248 providing institutional aid for higher education with the disbursement formula offered by Representative Edith Green.

Sincerely yours,

(Rev.) JOHN E. BROOKS, S.J.,
President.

CAMBRIDGE, MASS.

Hon. EDWARD BOLAND,
House of Representatives,
Washington, D.C.

The Massachusetts Institute of Technology urges your strong support of H.R. 7248, the "Higher Education Act of 1971" as approved by the House Education and Labor Committee on September 30th. Of continuing importance to M.I.T. are those provisions which would end and strengthen existing student aid programs, including national defense student loans, and provide a secondary market for federally insured loans

obtained by students from private lenders. Of special significance to institutions of higher education at this critical period of financial stress are the provisions for general institutional assistance. No specific formula will meet the needs of all institutions but some form of general assistance is urgently required now. We therefore endorse the provisions of H.R. 7248 for general assistance through grants based on total payment to federally assisted students attending the institution.

JEROME B. WIESNER,
President.

LEICESTER JUNIOR COLLEGE,
Leicester, Mass., October 7, 1971.

Mr. EDWARD P. BOLAND,
House Office Building,
Washington, D.C.

DEAR MR. BOLAND: May I urge you to support the Green Bill HR7248, which will probably reach the House floor within the next few days. The bill, as you know, provides for institutional aid for both public and private institutions of higher education with a formula which would give needed support to all colleges and the young men and women who attend them. These opportunities for students would be spread as far as possible, not only to the disadvantaged but also to the middle class, which has, in recent years, had to stand extraordinary economic pressures.

As you also know, many private colleges, especially the smaller ones who have to depend on tuition charges to pay their expenses, have been faced with decreasing enrollments and increasing deficits. Help is needed!

Therefore, I trust that you will support HR7248 on the floor of the House and, if it is successful, that you will do your best to see that it comes out of the conference committee intact.

We all appreciate your interest in education and will be grateful for your support of HR7248, a most important measure for all of us.

Sincerely,

HENRY C. BORGER,
President.

MASSACHUSETTS ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS,
October 8, 1971.

Representative EDWARD P. BOLAND,
Springfield, Mass.

DEAR REPRESENTATIVE BOLAND: The Massachusetts Association of Student Financial Aid Administrators requests your support for the 1971 Higher Education Bill H.R. 7248 which we understand has been reported out of the House Committee on Education.

We have been following this legislation closely and support the Bill as reported out of Committee. We ask that you do the same by voting in favor of this legislation.

Sincerely,

EDGAR F. HESELBARTH,
President.

Mr. ROBISON of New York. Mr. Chairman, this is a big bill—a very big bill—and one posing some very big questions.

As with all omnibus measures, this one includes certain provisions that are altogether necessary and desirable, along with others that can, at best, only be described as highly questionable.

In that latter category, as this debate shows, falls the troubling policy question of what to do about the financial crisis affecting most of our institutions of higher education. The committee report, in explanation of and as justification for title VIII of the bill, details the dimensions of that crisis, though I am sure all of us are, by now, fairly similar with them. However, as the report notes, in part:

Hundreds of institutions of higher education face financial crisis of severe proportions. Inflation and rising costs have put them in a classic cost-price squeeze . . . aggravated by a spectacular increase in enrollment. In fiscal year 1940, college enrollment was only 1.5 million. In 1959 those enrolled for degree credit were 3.377 million; in 1969, 7.299 million. The figure projected for 1979 is 11.075 million.

Further on, the report notes:

The cost-price squeeze has had particular effect on the small private Liberal Arts college. Information available to the Committee indicates that in 1937–38, institutions enrolling under 500 students constituted 44 percent of the colleges and universities in the country and enrolled 18 percent of the students. Thirty years later they constituted 27 percent of the institutions and accounted for 2 percent of the students.

And, then from the report, this clincher:

Studies made by Dr. William W. Jellema for the Association of American Colleges indicate that, unless immediate aid is forthcoming, 365 of the nation's private colleges and universities may be closed in this decade. Two hundred of them will have exhausted their liquid assets within a year. Stated another way, of the private accredited institutions, 50 percent of four year institutions and 45 percent of those offering master's degrees in no more than three fields, and 48 percent of the Ph. D. granting institutions, can be expected to fail within ten years.

The problem is not limited to private colleges. Of 99 state universities and land grant colleges, five years ago none had an operating deficit. Last year a survey of 78 showed 12 in the red. Of 278 state colleges and universities, 75 percent say financial difficulty is their major problem.

Finally, later on in the report, with reference to my State, we are told:

Of the 39 private colleges and universities in New York eligible to receive state aid, 36 were in a deficit condition in fiscal year 1970 with combined cumulative deficits of $53,-254,000. Even with state aid, 21 institutions operated in fiscal year 1970 with a total deficit of $34,014,000. In 1971, New York private institutions had deficits totalling $70 million.

This is certainly a bleak picture and, based on my own personal knowledge, it is hardly overstated. Our institutions of higher education have been wrestling with their cost problem as best they can, in many cases making those hard decisions that, in the end, reflect on the quality of their educational output; deferring necessary maintenance work; freezing or cutting back on faculty and staff levels; postponing needed building programs, and so on. In addition, of course, tuition levels have been pushed ever higher. In New York, tuition in private institutions has increased over 30 percent in the period from 1966 to 1970—something that also places such private institutions in impossible competition with such of our other higher education facilities as the City College of New York which charges no tuition, and the State University of New York which charges only $400. Yet—as the report also notes—the private institutions have no alternative since, for those with low endowments, 80 to 85 percent of their income must come from tuition.

Accordingly, the private institutions in New York, as well as elsewhere, are experiencing a continuous drop in enrollment—in New York, itself, a drop in their share of total enrollment of 8.7 percent in undergraduates in the period from 1967 to 1970, explained in major part by the fact that the middle-income student is simply being squeezed out of those institutions to which the affluent can still afford to send their children, while the disadvantaged student can still get in with the aid of Federal and State subsidies of the sort extended and expanded by certain provisions of this bill.

Few, if any, of us argue with the justification for such aid to the students from our Nation's poorer families, for, as John Amos Comenius wrote in 1632:

The education I propose includes all that is proper for a man, and is one in which all men who are born into this world should share . . . Our first wish is that all men should be educated fully to full humanity; not only one individual, nor a few, nor even many, but all men together and single, young and old, rich and poor, of high and lowly birth, men and women—in a word, all whose fate it is to be born human beings; so that at last the whole of the human race may become educated, men of all ages, all conditions, both sexes and all nations.

Mr. Chairman, in line with that philosophical approach to equal educational opportunities for every citizen, it has become an accepted Federal responsibility to do what can be done to insure post-secondary education for all high school graduates desiring the same, regardless of their economic circumstances.

The question remains, however: How can this best be done?

As this debate has shown, there is no clear consensus as to the proper answer—either within the educational community, itself, or within this body. Accordingly, it comes as no surprise that the committee had to reach for a compromise solution—or that its recommendation in this regard will now apparently survive this debate and go on to an uncertain fate in conference with the other body, that uncertainty stemming from the fact that the other body's bill reached no such middle ground.

As for the measure before us, the committee has heeded—in one-third part—the argument advanced by such as the gentleman from Minnesota (Mr. QUIE), that any further Federal aid to institutions of higher learning should "follow" that accepted Federal purpose of guaranteeing post-secondary educations to those students who could not otherwise afford the same. Thus, one-third of the institutional aid moneys hereby provided will be used to support and extend—under a so-called cost-of-education formula—such existing Federal efforts as those embodied in the work study program and in educational opportunity grants and national defense student loans.

So far, so good; and I fully support this part of the package.

But then, next, the committee—with one eye clearly cocked in the direction of those middle-income, or lower middle-income, students who are being squeezed out, as I have noted, of their opportunities to enjoy the diversity our system of higher education has heretofore pro-

vided—recommends that the remaining two-thirds of the institutional aid moneys hereby provided is to be made available on a student-capitation formula to all colleges and universities in the Nation, on an across-the-board basis. In a rather curious fashion that I am still not altogether sure makes sense, it suggests that such aid be distributed on the basis of full-time-equivalent enrollment, calculated—so we are told—on the further basis of "credits-earned" multiplied by a factor of $100 for first- and second-year students, $150 for third- and fourth-year students and $200 for each graduate student. I am unable to determine where this distribution formula came from, nor precisely how it can be justified.

However, any such uncertainty bothers me far less than my nagging uncertainty about the wisdom of our embarking, at this point in time and in this fashion, on a new program of general Federal aid to all institutions of higher education.

It may well be in the national interest to do what we can to help slow the escalator of rising tuition costs at nearly every college and university—particularly for those middle-income students who, as I have mentioned, are so largely dependent on their own or their families' savings, earnings, or borrowings for their higher educational opportunities.

Indeed, I would not argue otherwise if any such question was clearly presented to us. However, I would argue with the contention made yesterday by the gentlewoman from Oregon (Mrs. GREEN), to the effect that the only way to hold tuition costs down for this lower-middle-income group is through a program of general institutional aid of the sort here proposed. Surely, there are other methods, including the variety of tuition tax-deduction—or tax-credit—proposals now pending before this very Congress, and which represent for us an alternative route which I, for one, would much prefer to travel.

For I think one has to ask if it is, as equally as clearly, in the national interest to now offer financial assistance to all colleges and universities regardless of the nature and severity of their financial problems, and regardless, too, of what they have done, on their own, to try to resolve those problems? Or even—as Alfred B. Fitt, a special adviser to Yale University, has put it "regardless of how wretched their programs, how limited their appeal to students, or how wastefully they are managed"?

This Nation can rightfully be proud of our achievements in the field of higher education. We have managed to succeed in doing what, until very recently, almost every European educator and a good many Americans insisted could not be done—that is, in insuring, generally speaking, intellectual excellence and creative scholarships through something other than the nationalized systems of higher education that exist in most other nations.

I fear we threaten—through any permanent program of general institutional aid—the diversity and flexibility inherent, thus far, in our avoidance of a nationalized system of higher education; a possibility which our college and university administrators seem unaware of in their desperate search for relief from their fiscal burdens, even as most of us, here, are glossing over the concern we ought to be exhibiting for the Constitutional question also involved in any across-the-board aid program to all institutions of higher education including those that are church-related.

But there is yet another side to this coin—one I touched upon, in passing, a few moments ago.

For all is clearly not well with our system of higher education—and I refer now to those more-shadowy problem areas where the mere infusion of Federal aid dollars will cast little light. It is painfully apparent that, with this explosion of recent years in college enrollments and the concomitant rapidly changing pattern of social problems—at least as viewed by our younger citizens—higher education in America is not meeting, as well as it used to, the felt needs and desires of those who partake of its offerings.

This fact is evidenced by the growing numbers of what we have begun to call college stop-outs—as opposed to "drop-outs" at lower educational levels; and, paradoxically, the former may become a problem even more difficult to deal with than the latter.

We understand all too little of this problem at the present time. I have seen no critical exploration thereof comparable to Charles Silberman's "Crisis in the Classroom," which deals with the need for re-examination and reform of teaching methods and curriculums at lower educational levels, regarding which Silberman contends that, if too many of our schools and those who run them are, with the best of intentions, making a botch of things as:

> . . . an uncomfortably large number do, it is because it simply never occurs to more than a handful to ask why they are doing what they are doing—to think seriously and deeply about the purposes or consequences of education.

Silberman then goes on to suggest that:

> . . . this mindlessness—the failure or refusal to think seriously about educational purpose, the reluctance to question established practice—is not the monopoly of the public school; it is diffused remarkably evenly throughout the entire educational system, and indeed the entire society.

Surely, as a fairly recent HEW publication contends:

> . . . American children in the sixties are learning more than older brothers and sisters learned in the fifties.

But it is at that point that Silberman, for one, asks:

> Why, then, the pervading sense of crisis? How explain the fact that an educational system that appears to be superbly successful from one standpoint appears to be in grave trouble from another?

What is my point, Mr. Chairman, in raising these questions in the context of the matters now before us?

My point relates, precisely, to my other fear that we threaten—through any permanent program of general institutional aid—to postpone the day when not just a handful but all of our institutions of higher education undertake that critical self-examination of their policies and practices which, other than those purely fiscal in nature, undergird their collective ability to maintain our formerly high standards of educational excellence but in a manner suitable to the felt needs of today's generation of students.

Is it, therefore, in the national interest—not to mention the truer, long-range interests of our institutions of higher education, themselves—for us to now undertake to preserve each and every such institution, good, bad, or indifferent, as if they were, for all the world, so many "little Lockheed Corporations" whom we must keep afloat at all costs?

The only proper answer would seem to be a negative one, which finding would seem to be bolstered by the committee's own admission—as exemplified by part B of title VIII in the bill which provides for the creation of a National Commission on the Financing of Postsecondary Education—that it now lacks the information it ought to have to consider higher education's fiscal crisis in-depth sufficient to assess alternative methods for resolving the same in appropriate, permanent fashion. The aforementioned high-level commission is to consist of four Members of Congress plus 13 other citizens to be appointed by the President, and is to report its findings and recommendations back to the President and the Congress by June 30, 1973. One could wish that we already had the benefits of this contemplated study in-depth. We need them prior to taking anything other than temporary action on institutional aid; which is one of the reasons why I support title XVIII in the bill, the one offering a purely temporary program of emergency fiscal relief to those institutions of higher educations experiencing severe financial distress.

I would personally prefer, had the voting situation here permitted, to see the dollars authorized for such a temporary program of emergency aid increased as might be needed in the event the general institutional aid provisions of title VIII had, on yesterday, been stricken. Because of a longstanding commitment to spend our silver wedding anniversary with my wife—the kind of commitment I am sure all husbands here will understand—I was not here for yesterday's vote on the Erlenborn amendment to so strike title VIII. Had I been here, however, I doubt I would have voted for that amendment which, in retrospect, seems to me now to have gone too far in also seeking to erase the cost-of-education institutional aid from this bill—something I have previously noted I support.

So what we have now, then, would seem to be a sort of "Hobson's" choice—at least insofar as institutional aid is concerned. I favor one-third—or the cost-of-education portion—thereof as contained in title VIII, while having grave reservations about the remaining two-thirds thereof, as representing a scattergun effort to meet the special needs of the lower-middle-income stu-

dents in what might turn out to be a permanently unwise fashion. Those reservations—given the other features in this overall measure which I feel bound to support—are not sufficient to cause me to vote against the bill on final passage, for it deserves at least to go on now to conference to see what, if anything, can there be worked out by way of improvement on these points.

Mr. RARICK. Mr. Chairman, the Supreme Court continues to behave as if it is above and beyond obedience to the supreme law of the land; that is, the U.S. Constitution and the laws of Congress enacted pursuant thereto.

The Court decisions handed down on busing are in contravention of the Constitution itself, are contrary to the statutes enacted by this Congress and constitute clear usurpation. Certainly the Court's continued role of tyranny cannot go unchallenged. Our people must be reminded of the proper perspective of the respective roles of Government to prevent chaos and further distrust of our federal system.

Tragically, truth has become all but a stranger in our land and those who control the vehicle and means of communication to inform our people either are not doing so or they are distorting the truth.

The average American has been told from his TV set and has read in his newspaper that the Supreme Court has now "legalized" busing of schoolchildren and that the Supreme Court's order is the law of the land. Now we hear the same old line being parrotted in this Chamber. Nothing could be further from the truth. In fact, disregarding the constitutional questions presented, the latest decisions, if they do anything leave the question of busing in a more confused state than before.

But what is the law of the land?

We start with the Constitution of the United States, where the law of the land is defined in no uncertain terms in what is called the supremacy clause, found in article VI.

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby . . .

The crucial provision of our Constitution is:

> This Constitution and the Laws of the United States which shall be made in pursuance thereof . . . shall be the supreme Law of the Land . . .

Nothing is provided about Supreme Court decisions being the law of the land. On the other hand, judges are bound by acts of Congress.

Now Congress has enacted laws pursuant to the Constitution which are the law of the land. One of these laws goes right to the heart of our school problems today and points out the usurpation by the Supreme Court's ruling on busing.

Title 42 of the United States Code, section 2000C–B reads:

> . . . provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or the school district to another in order to achieve racial balance or otherwise enlarge the existing power of the court to insure compliance with Constitutional Standards.

42 U.S.C. 2000C Definition (b) reads:

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

And then to make sure that the intent of Congress was not misunderstood, when we appropriated money to operate the Department of Health, Education, and Welfare, we wrote into that law—in English so plain no one can misunderstand—a provision forbidding HEW to misuse taxpayers moneys in busing to achieve racial balance.

The language of the HEW Appropriations Act reads:

> No part of the funds contained in this Act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance.

These laws are the law of the land.

And the courts are in direct disobedience of the very law which they are sworn to uphold.

Supreme Court decisions are not—I repeat "not"—the law of the land. All they are is the decision in a certain lawsuit between certain parties.

Of course, they may mean that the same Judges, on the same facts, dealing with the same law, will decide a new case in the same way. But again, they may not.

The law of the land is the Constitution—and the laws enacted pursuant thereto.

The word of the Constitution repeatedly establishes the supremacy of Congress over the Supreme Court. It grants Congress general powers to regulate all the Federal courts. It takes up the question of the courts' honoring the Constitution, and instructs the State courts to do so. While on the subject it omits any mention of either a right or responsibility of the Supreme Court in the matter.

It gives the Supreme Court original jurisdiction in certain Federal matters, such as cases arising out of treaties. But in allowing the Supreme Court to hear appeals—which is where it has raised the most ruckus—it was made inferior to Congress, for the Constitution explicitly gives Congress the right to regulate the Court's hearing of appeals. The Constitution, in naming three things that will be the "supreme law of the land," limits them to three—thus excluding all pretentions of the modern Court that *it* is the author of "supreme law" too, unless it is conceded that the Court is free to rewrite the Constitution.

The "independence of the judciary" is applauded on all sides, but what is meant by it is not settled. As some see it, it means that the Congress shall not tamper with the functioning of the courts. There shall be trial by jury. On the High Court the Justices shall be appointed for life "during good behavior" and Congress shall not meddle with this. Congress does have power to impeach judges for "bad behavior," and it has been exercised a few times on Federal jurists, though not at the Supreme Court level. In this view, any right of courts to annul laws is not part of the "independence of the judiciary." It is rather a trampling on the "independence of the legislature."

But this dilemma has often been voiced: Suppose that the States and Congress defy the Constitution? Who, then, if not the Supreme Court, will defend it? As Jefferson implied in his "Bunker Hill" analogy, the people will. They can get at legislators who defy the basic law on each election day and replace them. But there is no election day for the Supreme Court, so the more serious dilemma is "Who will defend the Constitution if the Court abuses it?"

Our responsibility under that Constitution is plain. The American people have no redress but in this House. The power of impeachment rests with us. The power of the purse rests with us. The very existence and jurisdiction of every district court and court of appeals in the Federal system rests with us. The appellate and supervisory jurisdiction of the Supreme Court is entirely ours to bestow, limit or abolish.

We behold judges, ignore the positive statute law which we have enacted and the Constitution which they have sworn to uphold.

Freedom of choice is not an empty slogan. Freedom of choice is the heart and soul of American liberty. The American people still understand this and we must understand that there is a point beyond which the great law-abiding majority cannot be pushed. We are perilously near that point.

Mr. Chairman, I state plainly and simply that this busing by the Supreme Court of the United States is founded neither in any possible construction of the Constitution nor in any possible understanding of the law.

It is a classic example of the arbitrary and unfettered exercise of naked power.

Long years ago Thomas Jefferson warned free men of this very possibility, when he dramatically pointed out that of all tyranny, judicial tyranny is the most fearful.

If the Constitution of the United States forbids a State to assign pupils to a school solely because of their race, it makes no difference whether the object of such assignment is segregation or forced integration under the newly invented "Doctrine of Racial Proportion." If government has no power to forcefully segregate, it has no power to forcefully integrate.

It does not take genius to understand that the State either has that power or does not. Until 1954, it had such power. The Constitution did not change, but in 1954 the Warren court decided the power had vanished. The Warren Burger court has now decided that although the State has no such power, the court has.

What this preposterous decision amounts to is that racial school assignments are unconstitutional if they are made by the States, but constitutional if made by the courts.

These decisions are a gross distortion of any possible interpretation of the Constitution.

There is yet another problem.

The Constitution of the United States places the legislative power in the Congress. It requires that the President execute the laws. Congress has stated plainly that desegregation does not mean integration, and has prohibited the use of Federal moneys for busing to further the "doctrine of racial proportions."

Mr. Chairman, this is judicial tyranny in its worst form. Federal judges—not one of whom was elected by or are responsible to the people—have combined to promulgate and attempt to enforce by judicial fiat compliance with rules contrary to the laws enacted by the Congress which are the law of the land.

The people whose children are endangered by this usurpation of power cannot be expected meekly to submit—nor should they.

In the guise of controlling public education, the judiciary has now destroyed it. The people are not deceived. They understand the total lawlessness of this attempt. As free Americans, they will do what is necessary to protect their children, and what they can to educate them. People across the Nation are awakening. They are asking questions, and they are demanding answers. They are not satisfied with the explanations they are receiving.

We must be strong and patient. These are dark times for those of us who love our children. But we have had other dark times in our history, and the courage to face them and win out.

Valley Forge was dark—so was Reconstruction.

To condone tyranny which we have the power to end, makes us responsible parties with the initial perpetrators.

Mr. JAMES V. STANTON. Mr. Chairman, I would like to commend the members of the Education and Labor Committee for recognizing the great importance of fostering knowledge of our ethnic backgrounds by including in the higher education amendments a provision for the establishment of an ethnic studies program. Not long ago, it was considered quite unfashionable to speak in terms of one's nationality. In a rush to become Americanized many sought to forsake their ethnic background.

Fortunately, the snobbish notion that we must somehow be ashamed of our ethnic background has come to be rejected, and instead, we now realize that each race and nationality can and should take a great deal of pride in the historical achievements of their parents and forbears, and in the many unique customs and traditions which have been passed on from generation to generation.

The ethnic heritage studies program provided for in this bill will greatly facilitate the growth of this constructive attitude toward our ethnic background. The emphasis of this program is where it should be—upon the children in elementary and secondary schools. Through research financed by the act, curriculum materials which deal with all aspects of our ethnic heritage will be developed for the use of these schools. Not only will the children have an opportunity to gain knowledge of their own ethnic background, but also they will learn of the contributions made by other cultures and will realize the great value inherent in each of them. Prejudice, and intolerance of diversity, may thereby be reduced.

For these reasons, I urge prompt action for the establishment of the ethnic heritage studies program.

Mr. THONE. One of the best investments which we as a Nation can make, both for our future and that of all mankind, is in the field of education. The United States and the world face complex problems—hunger and disease still haunt our citizens, pollution threatens our environment, ignorance and fear still divide our world. The solutions to these and other problems are not readily discoverable and only an educated populace can hope to make strides toward their eradication.

Providing a quality education for all its citizens is certainly a fundamental purpose for the existence of the Government of the United States. Each and every citizen has the right to pursue such an education. The expense of providing such an education in terms of dollars is certainly large, but the consequences of a failure to provide the opportunity are far greater. The House of Representatives has the opportunity to take a significant step in upgrading the quality of American education and insuring that the opportunity to pursue it is available to all its citizens through the passage of H.R. 7248. By extending the funding for programs initiated by the Higher Education Act of 1965 and adding new programs to further aid both students and educational institutions, this legislation will have a marked effect on the quality of American life for generations to come.

Believing as I do in the value and importance of educating all of our people to the best of their abilities and inclinations, I wholeheartedly support H.R. 7248 and strongly urge my colleagues to do the same.

Mr. THOMPSON of New Jersey. Mr. Chairman, I rise in support of H.R. 7298, the Higher Education Act of 1971. This bill represents a massive overhauling of existing categorical programs with respect to student assistance and assistance to institutions of higher learning. In most instances, we have expanded existing programs and, in my judgment, improved upon them. We have also added a new element of Federal-aid arising from the extended hearings we held last year and the additional hearings of this year. Testimony from dozens of witnesses amply documents the fact that many of our colleges have reached the end of their resources and are in dire need of assistance. Similarly, the cost of higher education has reached a point where thousands of youngsters cannot meet ever increasing tuition costs. The record clearly calls for new avenues of Federal assistance.

Throughout the hearings honest difference of opinion developed as to the method by which additional Federal assistance should be channeled to public and private schools, and as a result our committee does not come before the House with unanimity of opinion. However, I do think that almost without exception we are united in the thought that the Federal role must be significantly expanded. Our task has been complicated by the recent decisions of the U.S. Supreme Court which hold that the constitutional protection of freedom of religion prohibits State government from becoming entangled in the process of religion. Although these decisions have clear import for the Federal Government, I believe that certain types of financial assistance can be made to nonpublic institutions.

We have had difference of opinion on specific issues in the subcommittee and in the full committee. The sharpest division occurred, as the report before you demonstrates, on the formula for allocating operating assistance to colleges and universities.

There are those who feel that assistance should be directed to each institution on a per capita basis irrespective of need or the financial status of the institution's students. Others support the formula advanced by the administration that assistance ought to be geared to the cost of education at a specific school and that the formula ought to take into account the number of students receiving financial aid. The committee adopted a compromise which in general would have two-thirds of a school's aid allocation paid on a per capita basis, and one-third based on a cost of education allowance. I voted for this compromise, albeit with some misgivings. Even at this late date I am willing to listen to anyone who advances a more equitable formula.

Speaking for myself, the bill is somewhat deficient as it relates to community colleges. I realize that there are those who feel that the original concept of the community college has been warped in that the past few years have witnessed an overemphasis on the use of the community college as a steppingstone to a 4-year college or university at the cost of downgrading its role as a center for career education. I do not think the community college must be an imitation of a 4-year institution, nor do I think it must of necessity take on the status of a vocational school. There is no reason why intelligent planning cannot accommodate both aspects of its function. Therefore, I regret that our committee did not see fit to incorporate the language of title X of the bill approved by the other body.

I would urge my colleagues to attend themselves to this bill. It is without question the most significant bill to come before the House in debate in my tenure on the subject of higher education. It will do much to shape the destiny of tens of thousands of our youth for years to come. The new Federal operating assistance which we authorize will literally mean life or death for many institutions of higher learning. On balance, it is a good bill, and I am pleased to support it. I could not conclude these remarks without expressing my admiration for the effort which the gentlelady from Oregon (Mrs. GREEN) and gentleman from Indiana (Mr. BRADEMAS) have expended to produce this piece of legislation.

Mr. ANDERSON of Illinois. Mr. Chairman, no more troublesome and explosive issue has come to haunt the Nation in the entire history of American education than the issue of busing students to achieve an integrated school system. Difficult as it is to divorce this issue from its emotional overtones, we will fail our duty to the American people unless we do. First we must confess that the situations which busing is designed to correct are sadly enough the product of our own willful neglect. For now almost three centuries we have tolerated first with a blind unawareness, and more recently with bland unconcern the fact that more than a third of the black students of our Nation attend schools that are 95 percent black. While we labor the distinction between defacto and de jure segregation we continue to educate yet another generation of young Americans who grow up believing that America is indeed two separate and unequal societies—one white and the other black, brown or red. And as we compound this tragedy, it is the Nation that is the loser in lost talents and undeveloped skills that never achieve their full potential. We have all been guilty of doing less than we should have done. There has been timidity in the executive branch, inertia in the legislative branch, and a lack of clear cut judicial guidelines.

We in the legislative branch have an opportunity today to indicate our support for those school districts around the country who are involved in efforts to right old wrongs and to shoulder the responsibility of providing for equal educational opportunity. That is the real issue in the emergency school desegregation legislation. It is not whether busing is the best or only instrumentality to achieve that goal, for clearly there are situations that it may not be. I wish we could keep in mind during this debate some of the thoughts recently expressed by Father Theodore Hesburgh, Chairman of the U.S. Civil Rights Commission:

Busing is really not the issue. What is important is the education that awaits the child, especially the minority child, for the first time good education, at the end of the bus ride. Busing never aroused emotions when it was done for all the wrong reasons—like the black youngsters in Wallace's Alabama who were bused 100 miles a day from Selma to Montgomery and back to attend a black vocational school when there was a lily-white vocational school where the buses left from in Selma. I remember Medgar Evers saying that his first recollection of busing was the new school buses passing him and other black children on the way to school—a very bad school—splashing them with mud as the white children on their way to a good school yelled out the window, "Nigger, nigger!" No objections to busing then.

One can argue about the costs of equality in America today. God knows we have known the costs of inequality—wasted talents, frustration, poverty piled on poverty, generation after generation. Laws have been grudingly passed and more grudingly obeyed, with every possible legal evasion tested. If we are ever to emerge from our present state of inequality, it will not be by insisting on minimum compliance with minimum laws. Generosity, magnanimity, and human understanding will alone allow us to transcend, in our day, our dismal history of racial inequality.

If we do not provide the funds that would be authorized by this legislation, it will not strike a great blow against busing—but we will strike a heavy blow against millions of schoolchildren. We will have allowed an emotional approach to an admittedly difficult and complicated problem to deflect our vision of the larger and far more important objective of providing assistance to school districts which both need and deserve our support.

Mr. PRICE of Illinois. Mr. Chairman, the current economic crises affect all of us. We often have to make sacrifices to make ends meet. Increased demand too often necessitates inferior quality, and this can be seen every day in our market system of goods and services. An unfortunate situation, indeed, and especially tragic when the quality cutback is in the field of education.

I cannot overemphasize the importance of H.R. 7248, the Higher Education Act of 1971, to the continued high standard of education in this country. The very lives of many of our colleges are at stake. Inflation has taken its toll in decreased faculty, enlarged classes, reduced student aid, defunct research programs, and skyrocketing tuitions and fees.

The Higher Education Act of 1965 was largely successful in aiding the improvement of college education in the United States. H.R. 7248 is a sensible extension of the 1965 act and could restore health to the waning educational scene before the deterioration leaves irreparable damage. Title VIII is the heart of the bill as far as this problem goes. This title utilizes a two-part allotment formula based on fulltime equivalent enrollment and the aggregate amount of Federal student aid received by an institution.

Title VIII represents a bold step in the philosophy of Federal aid to education. It is designed to help our colleges and universities defray operating costs. Thus our schools will be able to determine how to best utilize the funds to their best advantage in dealing with their most urgent needs.

The colleges in the 24th Illinois Congressional District are valuable assets; they have opened their doors to many students who otherwise could not leave the area to further their schooling. I intend to do all I can to insure the future quality service of these institutions as well as of others across the land.

If title VIII were fully funded in fiscal year 1972, the maximum amount of aid authorized to the 117 eligible institutions in the State of Illinois would total about $47,445,548, and the maximum amount of institutional assistance authorized to the colleges in my area would be distributed as follows: Belleville area college could receive about $117,450; McKendree College, $158,538; and Southern Illinois University at Edwardsville, $1,206,680.

If we fail our institutions of higher learning, we fail our youth. If we fail our youth, we jeopardize the future of America and the world. I am confident that my colleagues will not let this most important resource slip through their fingers. We must preserve educational quality in spite of increasing demand. Therefore, I strongly urge my colleagues to support this legislation.

Mr. WOLFF. Mr. Chairman, I rise in support of H.R. 7428, the Higher Education Act of 1971. In 1943, President James Bryant Conant of Harvard University wrote that—

The primary concern of American education today is not the development of the appreciation of the "good life" in young gentlemen born to the purple—our purpose is to cultivate in the largest number of our future citizens an appreciation of both the responsibilities and the benefits which come to them because they are Americans and free.

I believe strongly in the responsibility of the Federal Government in the educational systems of our Nation. The critical importance of our institutions of higher learning to the welfare of our Nation and the critical nature of their current financial plight demand that we undertake broad initiatives in this field of assistance.

Recently, we have heard too many reports of cutbacks in programs and personnel in our colleges. Some have even had to close their doors to incoming students. We cannot afford to stand by and watch this shocking decline in our higher education system which provides the skilled and trained people so vital to the well-being of our industrial democracy.

There are several aspects of this bill on which I should like to record my views. With the cost of education rising so rapidly, I am strongly in favor of title IV of this bill which increases the availability of student financial aid. Under the provisions of this title, part-time students would, for the first time, be eligible for assistance and special consideration would be granted to veterans in all student aid programs. The educational opportunity grant program has been successful and the enlargement proposed will help to make it even more effective.

As I have stated, the higher educational institutions have been adversely affected by the recent economic recession. Under titles VIII and XVIII funds would be provided for general and emergency assistance respectively. With regard to the distribution of this institutional aid, the committee bill would provide substantially more aid to higher education in New York State than would the formula proposed by the gentleman from Minnesota (Mr. QUIE). In my district, for example, based on an appropriation of $100 million, higher education facilities would receive $231,690 whereas under the substitute they would receive only $103,436. In addition, the committee's language takes into consideration graduate student population, smaller colleges and community colleges.

As a supporter of equal rights for women, I was pleased to note the inclusion, in this bill of title IX which would prohibit sex discrimination in any education program receiving Federal financial support. It also has important provisions on equal employment and pay opportunities. Passage of this measure would implement, in at least the field of higher education, the principles embodied in the equal rights amendment.

New York State Commissioner of Education Ewald B. Nyquist, in a recent letter to the editor of the Washington Post, wrote:

We feel strongly that there are many complicated issues at stake here and that the en-

tire future of higher education as a national resource is involved. We feel certain that the Congress, in its wisdom, will get to the heart of the matter and evolve a system that will be equitable and fair to all.

Although there were some improvements which I should have liked to see incorporated into this bill, I believe that we have passed a useful piece of legislation and I hope that we will provide the funds which will be necessary to insure the success of these very significant programs.

Mr. RYAN. Mr. Chairman, it is clear that the bill before us is no longer a higher education bill. Rather it has been converted into what a majority of the Members regard as an antibusing bill.

Presumably the original intent of the Pucinski amendment was to make palatable H.R. 2266, the $1.5 billion Emergency School Aid Act, which failed under suspension of the rules on Monday, by encumbering it with restrictions against using funds under that bill for busing in obeisance to the neighborhood school concept. The fact is that the administration's Emergency School Aid Act neither authorizes nor prohibits busing. However, I view such restrictions on the use of funds as illogical and inimical to desegregation, and I deplored the administration's recommendation for such a prohibition when it was made last August, for it represented another piece in the administration's southern strategy.

The restrictions are illogical because, if a school district is to receive Federal help in carrying out a desegregation plan, it should not be restricted in how it uses the funds to achieve the desired result of an integrated school system. Of course, the restrictions also are intended to hamstring execution of Federal court orders to desegregate, as well as HEW desegregation plans. On the one hand the Pucinski amendment offers Federal assistance; on the other hand it prohibits using it for transporting pupils. The only thing that can be said for it is that at least it recognizes that local school districts need Federal help in desegregating and does make available funds for limited help.

It is unfortunate that the chairman of the subcommittee (Mr. PUCINSKI) decided to offer this amendment to the higher education bill. I only wish he had listened to those of us who urged him not to do so during Mr. CONYERS' special order on November 3. The consequence of offering it was foreseeable. The door was opened to a flood of anticivil rights amendments, and the House had proceeded to vent its emotions, adopting three which are more sweeping than the Pucinski amendment.

1. THE BROOMFIELD AMENDMENT

The Broomfield amendment provides:

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

This would legislate a protracted delay in the execution of Federal court desegregation orders, which have a transportation component, interfering with established procedures for appellate review and grants of stays. There is no precedent and no justification for this kind of legislative injunction upon the judiciary. Its sole purpose is to frustrate the Supreme Court desegregation decision of 1954 and its mandate to the lower Federal courts to fashion and oversee desegregation decrees. It is designed to overrule *Dowell* v. *Board of Education*, 396 U.S. 269 (1969) and *Northcross* v. *Board of Education*, 397 U.S. 232 (1970), which held that desegregation orders should not be stayed pending appeal.

The "all deliberate speed" edict of 1954 becomes the every deliberate delay tactic of 1971—by an act of Congress, 17 years later. What a travesty! Congress, having failed to act to implement the 14th amendment for almost 100 years, the Supreme Court finally held "separate but equal" education to be violative of the 14th amendment. And now, instead of leading and educating their constituents, Congress, yielding to the passions of the times, cravenly acts to block the efforts of the Supreme Court.

2. THE ASHBROOK AMENDMENT

The Ashbrook amendment provides:

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

This is the perennial Whitten-type amendment revisited; but painted with a broader and bolder brush since the author regrettably perceives the mood of the House and is not hesitant to take full advantage of the emotional tide. Striking out beyond the confines of the Pucinski amendment, the Ashbrook amendment prohibits the use of any Federal funds for busing or transporting pupils.

I recognize that busing has become a highly emotional issue, but it has only become emotional in the context of school integration. For years rural school children have been bused for miles and for hours as new consolidated schools have been constructed all over the country to replace one-room schoolhouses. Central school districts are considered an advance in education. There have been no complaints.

For years in the big cities schoolchildren have been bused to schools—both public and private—beyond walking distance. There have been no complaints.

For years in the South, black schoolchildren were bused for miles and for hours—often out of their own neighborhoods right past white schools—in order to perpetuate segregation. How many white parents complained?

It should not be a question of how a child gets to school, but what is there when he or she arrives. The objective of the Federal courts in following the mandate of the Supreme Court and the objective of the Department of Health, Education, and Welfare in following the mandate of the Congress, as set forth in the Civil Rights Act of 1964, is to eliminate discrimination and achieve quality integrated education. The transportation of pupils to end school segregation and to overcome racial imbalance is one of the means used in achieving that objective. However, that objective is frustrated by the Ashbrook amendment which would prohibit the use of any appropriated Federal funds.

3. THE GREEN AMENDMENT

The Green amendment provides:

No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee.

A completely destructive amendment, the Green amendment appears to be aimed directly at the title VI of the Civil Rights Act of 1964—potentially the most effective weapon enacted by Congress for eliminating discrimination.

The power to deny Federal funds to programs in which there is discrimination was included in the Civil Rights Act of 1964 upon the insistence of several of us after it had been omitted from the bill the Justice Department drafted in 1963. I recall that, after the Attorney General met with us and reviewed the proposed draft in the summer of 1963, I organized a joint telegram from Members of Congress to President Kennedy expressing our disappointment and urging the inclusion of language which became title VI of the 1964 act.

Because it was an effective administration remedy, title VI engendered bitter controversy and became the target of the perennial Fountain amendments, which in better days we were able to defeat in Congress. Although in my opinion it was used too cautiously, and I repeatedly opposed both administrative and legislative attempts to undermine it, title VI did help to bring about compliance—until the advent of the Nixon administration. Its Southern Strategy dictated a deemphasis on civil rights enforcement by the Department of Justice and the virtual abandonment of title VI. When a conscientious public servant like Leon Panetta objected, he was fired.

By forbidding the Department of Health, Education, and Welfare—including the Office of Education—or any other Federal agency, to urge, persuade, induce, or require any local education agency to use any State or local funds for any purpose for which Federal funds may not be used, the Green amendment to the Ashbrook amendment would have the effect of preventing busing with local funds as part of an HEW desegregation plan or in implementation of a Federal court decree.

This amendment will surely have

devastating effects upon efforts of both the Department of Justice and the Department of Health, Education, and Welfare to obtain compliance with the Supreme Court desegregation decision and the Civil Rights Act of 1964. In fact, it is difficult to understand how court decrees can be fashioned and HEW plans formulated to achieve integrated schools if Congress forbids Federal officials to seek compliance by just urging or persuading local education agencies to use even local funds for busing. "Pernicious" inadequately describes the impact the Green amendment will have on civil rights enforcement.

The cumulative effect of the four amendments—the Pucinski amendment with its noxious antibusing restrictions, the Broomfield amendment creating a Congressional injunction on the judiciary, and the Ashbrook and Green amendments crippling civil rights enforcement—is to frustrate the Supreme Court's historic decision *Brown* v. *Board of Education*, 347 U.S. 496 (1954), and, thus, the purpose of the higher education bill is defeated.

The higher education bill is intended to help make college opportunities available to those without the financial ability to pay—to the poor, to the disadvantaged, to minority group members who have suffered from inferior elementary and secondary education. Colleges have initiated a variety of compensatory programs to overcome years of inadequate and unequal elementary and secondary education. The irony is that these programs are particularly necessary because our elementary and secondary schools have failed to provide proper preparation for college. Yet the bill before us, as now amended, builds in and perpetuates the very ills at the elementary and secondary education levels which these programs were designed to overcome.

Tonight the House has reacted ignominiously to the antibusing fever which has moved from South to North aided and abetted by President Nixon's euphemistic statement:

I am opposed to the busing of children simply for the sake of busing.

From the high road of enactment of the Civil Rights Acts of 1964, 1965, and 1968 the House has retreated to the low road of repeal, leaving Brown against Board of Education crippled. Federal courts without power to enforce their own orders, and local school boards, which acted in compliance, exposed without congressional support.

When the higher education bill was amended with extraneous anticivil rights amendments, becoming a vehicle for the repeal of past civil rights advances, the character of the bill changed. It is no longer a bill with the single noble purpose of improving higher education but a bill now laden with an ingnoble purpose. I am unwilling to accept that kind of compromise as the legislative route to the original goal. Therefore, I must cast my vote against the bill, which has cast a dark and ugly shadow over this Chamber which will not go unrecorded by history.

Mr. ERLENBORN. Mr. Chairman, at this time I would like to take the opportunity to correct a misunderstanding concerning the opposition of the Association of American Universities (AAU) to title X.

On October 29, 1971, I received the following letter from Charles V. Kidd, executive secretary of the AAU:

Representative JOHN N. ERLENBORN,
330 Cannon House Office Building,
Washington, D.C.

DEAR MR. ERLENBORN: The presidents of universities which are members of the Association of American Universities (list attached) discussed at a meeting on October 27 the progress of universities in removing discrimination against women, and problems which must be solved by a number of institutions if their plans for admitting increased numbers of women are to be met. They noted the increase in enrollment of women in many institutions and reaffirmed their commitment to progress towards removal of all forms of discrimination at the maximum feasible rate.

In connection with this discussion, the universities expressed opposition to Title X of H.R. 7248 as it applies to admission of undergraduates on the ground that it would establish an undesirable degree and kind of Federal influence over the ability of institutions to select students. Maintenance of the appropriate degree of university control over selection of students, faculty and academic programs is essential to the maintenance of the autonomy of universities, which is in turn the key to the contributions which they can make to society.

The members also stressed their judgment that the enactment of Title X would tend to reduce the diversity which is a uniquely valuable characteristic of the American system of higher education.

Sincerely yours,

CHARLES V. KIDD,
Executive Secretary.

This letter was sent to me by Mr. Kidd upon the request of one of the minority staff because of my intention to introduce the amendment now before you. The letter is identical to one sent by Mr. Kidd to Mr. QUIE on October 28. At the time the request was made for Mr. Kidd to send the letter of October 29, inquiry was made as to the strength of the support of the AAU membership in adopting their position opposed to applying title X to undergraduate admissions. We were told at that time that the AAU's position was unanimous.

On the basis of the letter sent to me, and the telephone conversation with Mr. Kidd, I distributed a letter to all of my colleagues indicating the unanimous support of the AAU for my amendment. Subsequently, following my publication of Mr. Kidd's letter in the CONGRESSIONAL RECORD of November 1, I received the following letter from Mr. Kidd:

Representative JOHN N. ERLENBORN,
330 Cannon House Office Building,
Washington, D.C.

DEAR MR. ERLENBORN: I am writing to you with reference to my letter of October 29 reporting the attitude of the Association of American Universities toward Title X of H.R. 7248.

I have been instructed by the President of the Association, President William C. Friday of the University of North Carolina, to convey to you the circumstances and weight of the discussion of Title X at the AAU meeting. The discussion of Title X came at the end of a long meeting. Many members of the AAU were not present at that time and some of those present were not opposed to the legislation. The opposition to Title X as currently worded is not the position of many members of the AAU.

I regret that my letter reflected a solid position of the AAU, which does not in fact exist.

Sincerely yours,

CHARLES V. KIDD.

Since receiving this letter, I have had our minority staff contact both Mr. Kidd and Mr. Friday to clarify the situation. I regret that I was misinformed as to the extent of the opposition within the AAU to title X of this bill. I would like to note, however, that while the opposition to title X was not unanimous, it was nonetheless adopted as an official position of the AAU at a duly constituted business meeting, with a quorum present, by a majority of those present and voting. As such, it is entitled to as much weight as Members wish to ascribe to it.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair Mr. BOLAND, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 7248 to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, pursuant to House Resolution 661, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Mrs. GREEN of Oregon. Mr. Speaker, is this the proper time to ask for a separate vote on the Erlenborn amendment to title X?

The SPEAKER. It is.

Mrs. GREEN of Oregon. Mr. Speaker, I demand a separate vote on the Erlenborn amendment to title X.

The SPEAKER. Is a separate vote demanded on any other amendment to the committee amendment in the nature of a substitute? If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Beginning with line 11, on page 198, strike out everything down through line 12 and insert in lieu thereof the following new subsection "(1)":

"(1) to the undergraduate admissions policy of any institution of higher education,"

The SPEAKER. The question is on the amendment.

Mrs. GREEN of Oregon. Mr. Speaker, on that I demand the yeas and nays.

PARLIAMENTARY INQUIRY

Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentlewoman will state the parliamentary inquiry.

Mrs. GREEN of Oregon. Mr. Speaker, when we are in the House, is it possible to ask for tellers with clerks?

The SPEAKER. It is.

Mrs. GREEN of Oregon. Then. Mr. Speaker, I withdraw the other request.

TELLER VOTE WITH CLERKS

Mr. Speaker, I demand tellers.

Tellers were ordered.

Mrs. GREEN of Oregon. Mr. Speaker, I demand tellers with clerks.

Tellers with clerks were ordered; and the Speaker appointed as tellers Mr. ERLENBORN, Mrs. GREEN of Oregon, Mr. PERKINS, and Mr. QUIE.

The Committee divided, and the tellers reported that there were—ayes 186, noes 181, not voting 64, as follows:

[Roll No. 360]

[Recorded Teller Vote]

AYES—186

Abbitt	Fountain	Passman
Abernethy	Frelinghuysen	Pelly
Anderson, Ill.	Frenzel	Pettis
Andrews, N. Dak.	Frey	Peyser
Archer	Fuqua	Pickle
Arends	Giaimo	Poff
Ashbrook	Goldwater	Powell
Ashley	Goodling	Price, Tex.
Baring	Griffin	Quie
Bell	Gross	Quillen
Bennett	Grover	Railsback
Betts	Haley	Randall
Bevill	Hall	Rarick
Biester	Hammer-schmidt	Rhodes
Blackburn	Harsha	Robinson, Va.
Boland	Harvey	Robison, N.Y.
Bow	Hays	Rooney, N.Y.
Bray	Hechler, W. Va.	Roush
Brooks	Heinz	Runnels
Broomfield	Henderson	Ruth
Brown, Mich.	Hogan	Sandman
Brown, Ohio	Horton	Satterfield
Broyhill, N.C.	Hungate	Saylor
Buchanan	Hunt	Scherle
Burke, Fla.	Hutchinson	Schmitz
Byrnes, Wis.	Ichord	Schneebeli
Byron	Johnson, Pa.	Schwengel
Caffery	Jonas	Scott
Camp	Jones, Ala.	Seiberling
Carter	Keating	Shoup
Cederberg	Keith	Shriver
Chappell	King	Smith, Calif.
Clancy	Kuykendall	Snyder
Clausen, Don H.	Kyl	Spence
Clawson, Del	Landgrebe	Springer
Cleveland	Latta	Steed
Collier	Lennon	Steele
Collins, Tex.	Lent	Steiger, Ariz.
Colmer	McCloskey	Steiger, Wis.
Conable	McCollister	Stubblefield
Conte	McDade	Talcott
Cotter	McDonald, Mich.	Teague, Calif.
Crane	McEwen	Terry
Daniel, Va.	Mailliard	Thomson, Wis.
Davis, Wis.	Mann	Thone
de la Garza	Mathias, Calif.	Vander Jagt
Delaney	Mathis, Ga.	Veysey
Devine	Mayne	Waggonner
Dickinson	Mazzoli	Wampler
Dorn	Michel	Ware
Downing	Miller, Ohio	Whalen
du Pont	Mills, Md.	Whalley
Edwards, Ala.	Minshall	Whitehurst
Erlenborn	Mizell	Widnall
Eshleman	Monagan	Williams
Evins, Tenn.	Montgomery	Wilson, Bob
Fish	Morse	Winn
Fisher	Mosher	Wydler
Flowers	Myers	Wyman
Flynt	Natcher	Young, Fla.
Ford, Gerald R.	Nelsen	Zablocki
Forsythe	Nichols	Zwach

NOES—181

Abourezk	Burlison, Mo.	Duncan
Abzug	Burton	Dwyer
Adams	Byrne, Pa.	Eckhardt
Addabbo	Carey, N.Y.	Edmondson
Alexander	Casey, Tex.	Edwards, Calif.
Anderson, Calif.	Celler	Eilberg
Anderson, Tenn.	Chamberlain	Esch
Andrews, Ala.	Chisholm	Evans, Colo.
Annunzio	Clark	Fascell
Badillo	Clay	Flood
Begich	Collins, Ill.	Foley
Bergland	Conyers	Ford, William D.
Biaggi	Corman	Fraser
Bingham	Daniels, N.J.	Fulton, Tenn.
Blatnik	Danielson	Gallfianakis
Boggs	Davis, S.C.	Gallagher
Bolling	Dellenback	Garmatz
Brademas	Dellums	Gaydos
Brasco	Denholm	Gettys
Brinkley	Dent	Gibbons
Brotzman	Dingell	Gonzalez
Burke, Mass.	Donohue	Grasso
Burleson, Tex.	Dow	Gray
	Drinan	Green, Oreg.
	Dulski	
Green, Pa.	Madden	Rogers
Gude	Mahon	Roncalio
Hagan	Matsunaga	Rooney, Pa.
Hamilton	Meeds	Rosenthal
Hanley	Melcher	Rostenkowski
Hanna	Mikva	Rousselot
Hansen, Wash.	Minish	Roy
Harrington	Mink	Roybal
Hathaway	Mitchell	Ryan
Hawkins	Mollohan	St Germain
Heckler, Mass.	Moorhead	Sarbanes
Helstoski	Morgan	Scheuer
Hicks, Mass.	Moss	Shipley
Hicks, Wash.	Murphy, Ill.	Sikes
Hillis	Murphy, N.Y.	Slack
Holifield	Nedzi	Smith, Iowa
Howard	Nix	Stanton, James V.
Hull	Obey	Stokes
Jacobs	O'Hara	Stratton
Jones, N.C.	O'Konski	Sullivan
Karth	O'Neill	Symington
Kastenmeier	Patten	Thompson, Ga.
Kazen	Pepper	Thompson, N.J.
Kemp	Perkins	Tiernan
Kluczynski	Pike	Ullman
Kyros	Podell	Van Deerlin
Landrum	Preyer, N.C.	Vanik
Leggett	Price, Ill.	Vigorito
Link	Pryor, Ark.	Waldie
Long, Md.	Pucinski	Whitten
McClory	Purcell	Wilson, Charles H.
McCormack	Rangel	Wolff
McFall	Reid, N.Y.	Yates
McKay	Reuss	Yatron
McKevitt	Riegle	Young, Tex.
McKinney	Rodino	
McMillan	Roe	

NOT VOTING—64

Aspin	Hastings	Rees
Aspinall	Hébert	Roberts
Baker	Hosmer	Ruppe
Barrett	Jarman	Sebelius
Belcher	Johnson, Calif.	Sisk
Blanton	Jones, Tenn.	Skubitz
Broyhill, Va.	Kee	Smith, N.Y.
Cabell	Koch	Staggers
Carney	Lloyd	Stanton, J. William
Coughlin	Long, La.	Stephens
Culver	Lujan	Stuckey
Davis, Ga.	McClure	Taylor
Dennis	McCulloch	Teague, Tex.
Derwinski	Macdonald, Mass.	Udall
Diggs	Martin	White
Dowdy	Metcalfe	Wiggins
Edwards, La.	Miller, Calif.	Wright
Findley	Mills, Ark.	Wyatt
Griffiths	Patman	Wylie
Gubser	Pirnie	Zion
Halpern	Poage	
Hansen, Idaho		

So the amendment was agreed to.

The SPEAKER. The question is on the amendment in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit the bill, H.R. 7248, to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. RYAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. PERKINS. Mr. Speaker, on passage I ask for a record vote by tellers.

Mr. BELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 332, nays 38, not voting 60, as follows:

[Roll No. 361]

YEAS—332

Abbitt	Dulski	Keith
Abourezk	Duncan	Kemp
Abzug	du Pont	King
Adams	Dwyer	Kluczynski
Addabbo	Eckhardt	Kuykendall
Alexander	Edmondson	Kyl
Anderson, Calif.	Edwards, Ala.	Kyros
Anderson, Ill.	Edwards, Calif.	Landrum
Anderson, Tenn.	Eilberg	Latta
Andrews, N. Dak.	Erlenborn	Leggett
Annunzio	Esch	Lennon
Arends	Eshleman	Lent
Badillo	Evans, Colo.	Link
Baring	Evins, Tenn.	Long, Md.
Begich	Fascell	McClory
Bell	Fish	McCloskey
Bennett	Flood	McCollister
Bergland	Flowers	McCormack
Betts	Foley	McDade
Bevill	Ford, Gerald R.	McDonald, Mich.
Biaggi	Ford, William D.	McFall
Biester	Forsythe	McKay
Bingham	Fountain	McKevitt
Blatnik	Fraser	McKinney
Boggs	Frelinghuysen	McMillan
Boland	Frenzel	Macdonald, Mass.
Bolling	Frey	Madden
Brademas	Fulton, Tenn.	Mailliard
Brasco	Fuqua	Mann
Brinkley	Gallfianakis	Mathias, Calif.
Brooks	Gallagher	Mathis, Ga.
Broomfield	Garmatz	Matsunaga
Brotzman	Gaydos	Mayne
Brown, Mich.	Gettys	Mazzoli
Brown, Ohio	Giaimo	Meeds
Broyhill, N.C.	Gibbons	Melcher
Buchanan	Goldwater	Mikva
Burke, Fla.	Gonzalez	Miller, Ohio
Burke, Mass.	Grasso	Mills, Md.
Burlison, Mo.	Gray	Minish
Burton	Green, Oreg.	Minshall
Byrne, Pa.	Green, Pa.	Mitchell
Byron	Griffin	Mizell
Caffery	Grover	Mollohan
Camp	Gude	Monagan
Carey, N.Y.	Hagan	Moorhead
Carter	Hamilton	Morgan
Casey, Tex.	Hammer-schmidt	Morse
Cederberg	Hanley	Mosher
Celler	Hanna	Moss
Chamberlain	Hansen, Wash.	Murphy, Ill.
Chappell	Harrington	Murphy, N.Y.
Chisholm	Harsha	Myers
Clark	Harvey	Natcher
Clausen, Don H.	Hastings	Nedzi
Cleveland	Hathaway	Nelsen
Collier	Hawkins	Nichols
Collins, Ill.	Hays	Nix
Conte	Hechler, W. Va.	Obey
Conyers	Heckler, Mass.	O'Hara
Corman	Heinz	O'Konski
Cotter	Helstoski	O'Neill
Coughlin	Henderson	Passman
Daniel, Va.	Hicks, Mass.	Patten
Daniels, N.J.	Hicks, Wash.	Pelly
Danielson	Hillis	Pepper
Davis, S.C.	Hogan	Perkins
de la Garza	Holifield	Pettis
Delaney	Horton	Peyser
Dellenback	Howard	Pickle
Dellums	Hull	Pike
Denholm	Hungate	Podell
Dent	Hunt	Poff
Dickinson	Ichord	Powell
Dingell	Jacobs	Preyer, N.C.
Donohue	Johnson, Pa.	Price, Ill.
Dorn	Jones, Ala.	Price, Tex.
Dow	Jones, N.C.	Pryor, Ark.
Downing	Karth	Pucinski
Drinan	Kastenmeier	Purcell
	Kazen	Quie
	Keating	Quillen

Railsback	Scott	Tiernan
Randall	Selberling	Ullman
Rangel	Shipley	Van Deerlin
Reid, N.Y.	Shoup	Vander Jagt
Reuss	Shriver	Vanik
Rhodes	Sikes	Veysey
Riegle	Slack	Vigorito
Robinson, Va.	Smith, Calif.	Waggonner
Robison, N.Y.	Smith, Iowa	Waldie
Rodino	Snyder	Wampler
Roe	Spence	Ware
Rogers	Springer	Whalen
Roncalio	Stanton,	Whalley
Rooney, N.Y.	James V.	Whitehurst
Rooney, Pa.	Steed	Whitten
Rosenthal	Steele	Widnall
Rostenkowski	Steiger, Ariz.	Williams
Roush	Steiger, Wis.	Wilson, Bob
Roy	Stokes	Wilson,
Roybal	Stratton	Charles H.
Runnels	Stubblefield	Winn
Ruth	Sullivan	Wolff
St Germain	Symington	Wydler
Sandman	Talcott	Wyman
Sarbanes	Teague, Calif.	Yates
Satterfield	Terry	Yatron
Scherle	Thompson, Ga.	Young, Fla.
Scheuer	Thompson, N.J.	Young, Tex.
Schneebeli	Thomson, Wis.	Zablocki
Schwengel	Thone	Zwach

NAYS—38

Abernethy	Collins, Tex.	Jonas
Andrews, Ala.	Colmer	Landgrebe
Archer	Conable	McEwen
Ashbrook	Crane	Mahon
Ashley	Davis, Wis.	Michel
Blackburn	Devine	Mink
Bow	Fisher	Montgomery
Bray	Flynt	Rarick
Burleson, Tex.	Goodling	Rousselot
Byrnes, Wis.	Gross	Ryan
Clancy	Haley	Saylor
Clawson, Del	Hall	Schmitz
Clay	Hutchinson	

NOT VOTING—60

Aspin	Hébert	Ruppe
Aspinall	Hosmer	Sebelius
Baker	Jarman	Sisk
Barrett	Johnson, Calif.	Skubitz
Belcher	Jones, Tenn.	Smith, N.Y.
Blanton	Kee	Staggers
Broyhill, Va.	Koch	Stanton,
Cabell	Lloyd	J. William
Carney	Long, La.	Stephens
Culver	Lujan	Stuckey
Davis, Ga.	McClure	Taylor
Dennis	McCulloch	Teague, Tex.
Derwinski	Martin	Udall
Diggs	Metcalfe	White
Dowdy	Miller, Calif.	Wiggins
Edwards, La.	Mills, Ark.	Wright
Findley	Patman	Wyatt
Griffiths	Pirnie	Wylie
Gubser	Poage	Zion
Halpern	Rees	
Hansen, Idaho	Roberts	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Wyatt for, with Mr. Martin against.
Mr. Lujan for, with Mr. Dennis against.

Until further notice:

Mr. Aspinall with Mr. Zion.
Mr. Taylor with Mr. Belcher.
Mr. Davis of Georgia with Mr. McCulloch.
Mr. Koch with Mr. Halpern.
Mr. Barrett with Mr. Pirnie.
Mr. Hébert with Mr. Broyhill of Virginia.
Mr. Teague of Texas with Mr. Lloyd.
Mr. Roberts with Mr. Findley.
Mr. Cabell with Mr. McClure.
Mr. Blanton with Mr. Baker.
Mr. White with Mr. Hansen of Idaho.
Mr. Jones of Tennesse with Mr. Ruppe.
Mr. Johnson of California with Mr. Gubser.
Mr. Aspin with Mr. Sebelius.
Mr. Carney with Mr. J. William Stanton.
Mr. Culver with Mr. Skubitz.
Mr. Kee with Mr. Smith of New York.
Mr. Staggers with Mr. Wylie.
Mr. Sisk with Mr. Hosmer.
Mr. Diggs with Mr. Derwinski.
Mr. Stuckey with Mr. Wiggins.
Mr. Stephens with Mr. Dowdy.
Mr. Miller of California with Mr. Metcalfe.
Mr. Udall with Mr. Wright.
Mr. Rees with Mr. Jarman.
Mrs. Griffiths with Mr. Patman.

Mr. CHAPPELL, Mr. HAGAN, Mrs. ABZUG, and Mr. DELLUMS changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 661, the Committee on Education and Labor is discharged from the further consideration of the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mrs. GREEN of Oregon moves to strike out all after the enacting clause of the bill S. 659 and insert in lieu thereof the provisions of H.R. 7248, as passed, as follows:

That this Act may be cited as the "Higher Education Act of 1971".

TITLE I—EXTENSION OF COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

SEC. 101. Section 101 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

TITLE II—EXTENSION AND AMENDMENT OF PROGRAMS OF COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

SEC. 201. (a) Section 201 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

(b) Section 202 of such Act is amended by inserting before the period at the end of the first sentence ", and other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis".

(c) Section 202(a) of such Act is amended by inserting before "and (2)" the following: "except that under special and unusual circumstances the Commissioner is authorized to waive this requirement,".

(d) Section 202(b) of such Act is amended by inserting immediately preceding the semicolon at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive this requirement".

(e) Section 203(a) of such Act is amended by striking out "$10" and inserting in lieu thereof "$20".

(f) Section 204(a)(2) of such Act is amended by striking out "and" immediately preceding "(C)", and inserting before the period at the end of the first sentence the following: ", and (D) to other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis".

(g) Section 221 of such Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 221. Only for the purpose of carrying out training programs under this part, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976. In addition only for the purpose of carrying out research and demonstration programs under this part, there are authorized to be appropriated $5,000,000 for the fiscal year 1972, $10,000,000 for the fiscal year 1973, $20,000,000 for the fiscal year 1974, $35,000,000 for the fiscal year 1975, and $40,000,000 for the fiscal year 1976."

(h) Subsection (a) of section 223 of such Act is amended by striking out the period at the end of the subsection and inserting: ": *Provided, however,* That in any fiscal year not less than 50 percent of the grants made under this subsection shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2)."

(i) Subsection (b) of section 223 of such Act is amended by inserting after "institution of higher education" the following: "and other library and educational organizations or agencies".

(j)(1) Section 231 of such Act is amended by striking out "and" after "1969," and inserting before "to enable the Commissioner" the following: "and $9,000,000 for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976,".

(2) Effective on the date of enactment of this Act, part C of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new section:

"EVALUATION AND REPORT

"SEC. 232. No later than March 31 of each calendar year the Librarian of the Congress shall transmit to the respective committees of the Congress having legislative jurisdiction over this part and to the respective Committees on Appropriations of the Congress a report evaluating the results and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent practicable on objective measurements, including costs, together with recommendations as to proposed legislative action."

TITLE III—EXTENSION OF PROGRAMS TO STRENGTHEN DEVELOPING INSTITUTIONS

SEC. 301. Section 301(b)(1) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and the sum of $120,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976,".

AMENDMENT OF PROVISIONS RELATING TO DEVELOPING INSTITUTIONS

SEC. 302. (a) Section 306 of the Higher Education Act of 1965 is amended by striking out "(other than developing institutions)".

(b) Section 304(c) of such Act is amended by adding at the end thereof the following new sentence: "None of the funds appropriated pursuant to section 301(b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian instruction."

TITLE IV—STUDENT ASSISTANCE

PART A—AMENDMENT AND EXTENSION OF EDUCATIONAL OPPORTUNITY GRANT PROGRAM

SEC. 401. So much of part A of title IV of the Higher Education Act of 1965 as precedes section 408 is amended to read as follows:

"PART A—EDUCATIONAL OPPORTUNITY GRANTS

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 401. (a) It is the purpose of this part to provide, through institutions of higher education, educational opportunity grants to assist in making available the benefits of higher education to qualified high school graduates of exceptional financial need, who for lack of financial means would be unable to obtain such benefits without such aid.

"(b) There are hereby authorized to be appropriated $295,000,000 for the fiscal year 1972 and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976, to enable the Commissioner to make payments to institutions of higher education that have agreements with him entered into under section 407, for use by such institutions for payments to undergraduate students for educational opportunity grants under this part. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated.

"DETERMINATION OF AMOUNT OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 402. From the funds received by it for such purpose under this part, an institution which awards an educational opportunity grant to a student for an academic year under this part shall, for such year, pay to that student the amount determined by the institution for such student for that year, which amount shall not exceed the lesser of $1,500 or one-half of the sum of the amount of student financial aid (including assistance under this title) provided such student by such institution and any assistance provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations of the Commissioner, except that no student shall be paid during all the academic years he is pursuing his undergraduate course of study at one or more institutions of higher education in excess of $4,000 or $5,000 in the case referred to in the second sentence of section 403. The Commissioner shall, subject to the other limitations in this part, prescribe basic criteria or schedules (or both) for the determination of the amount of educational opportunity grants, taking into account the objective of limiting grant aid under this part to students of exceptional financial need who but for such aid would be unable to obtain the benefits of higher education, but such criteria or schedules shall not disqualify an applicant on account of his earned income if income from other sources in the amount of such earned income would not disqualify him. An individual who has, in years prior to the effective date of the Higher Education Act of 1971, been awarded an educational opportunity grant pursuant to this part shall continue to be eligible to receive a grant in accordance with the requirements of this part as in effect at the time of the initial grant.

"DURATION OF PERIOD OF ELIGIBILITY FOR EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 403. A student eligible therefor may be awarded an educational opportunity grant under this part for each academic year of the period required for completion by the recipient of his undergraduate course of study at the institution of higher education from which he received the educational opportunity grant, except that such period shall not exceed four academic years. The eligibility of a student for an educational opportunity grant may, in accordance with regulations of the Commissioner, be extended for up to an additional academic year where five academic years is the normal period needed to complete the course of study the student is pursuing, or where the student, because of his particular circumstances, is determined by the institution to need an additional year to complete a course of study normally requiring four academic years.

"SELECTION OF RECIPIENTS OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 404. (a) An individual shall be eligible for the award of an educational opportunity grant under this part at any institution of higher education which has made an agreement with the Commissioner pursuant to section 407 (which institution is hereinafter in this part referred to as an 'eligible institution'), if the individual makes application at the time and in the manner prescribed by that institution.

"(b) From among those eligible for educational opportunity grants from an institution of higher education for each fiscal year, the institution shall, in accordance with the provisions of its agreement with the Commissioner under section 407 and within the amount allocated to the institution for that purpose for that year under section 406, select individuals who are to be awarded such grants and determine, pursuant to section 402, the amounts to paid to them. An institution shall not award an educational opportunity grant to an individual unless it determines that—

"(1) he has been accepted for enrollment as a student at such institution on at least a half-time basis or, in the case of a student already attending such institution, is in good standing and in attendance there on at least a half-time basis as an undergraduate student;

"(2) he shows evidence of academic or creative promise and capability of maintaining good standing in his course of study; and

"(3) he is of exceptional financial need and would not, but for an educational opportunity grant, be financially able to pursue a course of study at such institution of higher education. In determining financial need, expected family contributions shall be considered to be the contribution expected in the specific circumstances of the applicant, as determined by the student financial aid officer. Any calculation of the ability of a family to contribute shall include consideration of (A) family assets, (B) value of any social welfare services provided to the family by public or private agencies, (C) number of children in the family, (D) number of children attending institutions of higher education, (E) any catastrophic illnesses in the family, (F) business failures, (G) educational expenses of other dependent children in the family, and (H) other circumstances affecting the student's financial need.

"ALLOTMENT OF EDUCATIONAL OPPORTUNITY GRANT FUNDS AMONG STATES

"SEC. 405. The Commissioner shall allot funds appropriated pursuant to section 401 among the States in accordance with section 465.

"ALLOCATION OF ALLOTTED FUNDS TO INSTITUTIONS

"SEC. 406. (a) The Commissioner shall from time to time set dates by which eligible institutions in any State must file applications for allocation, to such institutions, of educational opportunity grant funds from the allotment to that State (including any reallotment thereto) for any fiscal year in accordance with section 465(a), to be used for the purposes specified in the first sentence of section 401(b). Such allocations shall be made in accordance with criteria which the Commissioner shall establish and which shall be designed to achieve such distribution of such funds among eligible institutions within a State as will most effectively carry out the purposes of this part.

"(b) Payment shall be made from allocations under this section to institutions as needed.

"AGREEMENTS WITH INSTITUTIONS—CONDITIONS

"SEC. 407. An institution of higher education which desires to obtain funds for educational opportunity grants under this part shall enter into an agreement with the Commissioner. Such agreement shall—

"(1) provide that funds received by the institution under this part will be used by it only for the purposes specified in, and in accordance with, the provisions of this part;

"(2) provide that in determining whether an individual meets the requirements of section 404(b)(3) the institution willl consider such individual's income, including as a part thereof any expected contribution from parents or others upon whom the student may rely for support, except that there shall be deemed to be no expected contribution from the parents of a veteran (as that term is defined in section 101(2) of title 38, United States Code);

"(3) provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and to encourage them to continue their education beyond secondary school through programs and activities such as—

"(A) establishing or strengthening close working relationships with secondary-school principals and guidance and counseling personnel with a view toward motivating students to complete secondary school and pursue post-secondary-school educational opportunities, and

"(B) making, to the extent feasible, conditional commitments for educational opportunity grants to qualified secondary school students, who but for such grants would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidence of academic or creative promise;

"(4) provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under this part, not less than the average expenditure per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement;

"(5) include provisions designed to make educational opportunity grants under this part reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part."

PROGRAM CONSOLIDATIONS

SEC. 402. Section 408 of the Higher Education Act of 1965 is amended to read as follows:

"IDENTIFYING QUALIFIED LOW-INCOME STUDENTS; PREPARING THEM FOR POSTSECONDARY EDUCATION; SPECIAL SERVICES FOR SUCH STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"SEC. 408. (a) To assist in achieving the objectives of this section the Commissioner is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, or contracts with, institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions, public or private agencies or organizations (including professional or scholarly associations), or in exceptional cases secondary schools or secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in subsection (c), except that no grant may be made to an agency, organization, institution, or school other than a public or nonprofit private one.

"(b) Such services shall be designed to enable youths from low-income backgrounds who have academic potential (but may lack adequate secondary school preparation or be physically handicapped) to enter, continue, or resume a program of postsecondary education.

"(c) Such services are—

"(1) publicizing existing forms of student financial aid;

"(2) identifying youths described in subsection (b) and encouraging them to complete secondary school and to undertake postsecondary education;

"(3) encouraging youths described in subsection (b) who have dropped out of secondary school or college to reenter educa-

tional programs, including programs of post-secondary education;

"(4) generating skills and motivation necessary for success in education beyond high school;

"(5) providing counseling, tutorial, or other educational services, including special summer programs, to remedy academic deficiencies;

"(6) providing career guidance, placement, or other student personnel services (including health services);

"(7) identifying, encouraging, and counseling students with a view to their undertaking a program of graduate or professional education; and

"(8) providing other special or supplemental services necessary to achieve the purposes set forth in subsection (b).

"(d) Enrollees who are participating on an essentially full-time basis in one or more services being provided under subsection (c) may be paid stipends, but not in excess of $30 per month except in exceptional cases as determined by the Commissioner.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976."

INCLUSION OF PROPRIETARY INSTITUTIONS

SEC. 403. Effective July 1, 1973, section 409 of the Higher Education Act of 1965 is amended to read as follows:

"DEFINITIONS

"SEC. 409. For the purposes of this part (other than section 408)—

"(1) The term 'academic year' means an academic year or its equivalent, as defined in regulations of the Commissioner.

"(2) The term 'institution of higher education' includes a proprietary institution of higher education (as defined in section 461 of this Act)."

PART B—EXTENSION AND AMENDMENT OF STUDENT LOAN INSURANCE PROGRAM

EXTENSION OF STUDENT LOAN INSURANCE PROGRAM

SEC. 411. (a) The first sentence of section 424(a) of the Higher Education Act of 1965 is amended to read as follows: "The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,600,000,000 for the fiscal year 1972, $1,800,000,000 for the fiscal year 1973, $2,000,000,000 for the fiscal year 1974, $2,200,000,000 for the fiscal year 1975, and $2,400,000,000 for the fiscal year 1976."

(b) The second sentence of such section 424(a) is amended by striking out "1975" and inserting "1980".

(c) Section 428(a)(4) of such Act is amended by striking out "1971" and inserting "1976" and by striking out "1975" and inserting "1980".

(d) Section 433(c) of such Act is amended by striking out "for the fiscal year ending June 30, 1969, and for each of the two succeeding fiscal years" and inserting "for each fiscal year ending prior to July 1, 1976".

EXTENSION OF AUTHORITY FOR PAYING SPECIAL ALLOWANCES ON INSURED STUDENT LOANS

SEC. 412. Paragraph (7) of section 2(a) of the Emergency Insured Student Loan Act of 1969 (Public Law 91-95) is amended by striking out "1971" and inserting "1976".

AMENDMENTS TO INTEREST SUBSIDY PROVISIONS

SEC. 413. (a) Paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended to read as follows:

"(1) Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Commissioner under this part;

"(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (4); or

"(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (4), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

and who has been determined by the eligible institution to be in need of the entire amount of such loan, after consideration of expected family contributions, in order to pursue a course of study at such eligible institution and has provided the lender with a statement evidencing such determination and stating the amount of the loan of which such student is in need, shall be entitled to have paid on his behalf and for his account to the holder of the loan, a portion of the interest on the loan. Such determination of need shall be made, and such statement shall be furnished, by the eligible institution, except that, in the case of eligible institutions located outside the United States, such determination shall be made, and such statement furnished, in such manner as the Commissioner may prescribe. In addition, the Commissioner shall pay an administrative cost allowance in the amount established by paragraph (2)(B) of this subsection with respect to loans to any student without regard to the borrower's need. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan."

(b) Section 428(b)(1)(H) of such Act is amended to read as follows:

"(H) provides that the benefits of the loan insurance program will not be denied any student because of his family income or lack of need if the institution has furnished the lender with a statement under paragraph (1) of subsection (a) of this section that the student needs a loan in the amount determined pursuant to such paragraph to pursue his course of study at that institution, except in the case of loans made by an instrumentality of a State or eligible institution;".

INSURANCE LIABILITY

SEC. 414. (a) Section 425(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan, plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part."

(b) Section 427(a)(2)(D) of such Act is amended by striking out the following: "(but without thereby increasing the insurance liability under this part)".

(c) The last sentence of section 430(a) of such Act is amended by striking out "of the loan (other than interest added to principal)" and inserting in lieu thereof the following: "and interest".

INCREASE IN LOAN CEILINGS

SEC. 415. (a) Subsection (a) of section 425 of the Higher Education Act of 1965 is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500, except in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education" and (2) by striking out "$7,500" and inserting "$100,000".

(b) Clause (A) of section 428(b)(1) of such Act is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500 (except in those cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education)" and (2) by striking out "$7,500" and inserting "$10,000".

INCLUSION OF PART-TIME STUDENTS IN LOAN PROGRAMS

"SEC. 416. Section 427(a)(1) of the Higher Education Act of 1965 is amended by striking out everything after "who (A)" down through "and (C)" and inserting in lieu thereof the following: "has been accepted for enrollment at an eligible institution on a full time or on a part-time basis or, in the case of a student already attending such institution, is in good standing there as determined by the institution on a full time or on a part-time basis, and (B)."

ALLOWANCES TO INSTITUTIONS FOR THEIR COSTS IN CONNECTION WITH THE INSURED STUDENT LOAN PROGRAM

SEC. 417. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(f) The Commissioner may pay to each eligible institution an allowance for each fiscal year which may not exceed 1 per centum of the amount of loans made to students at that institution for that year which are insured (1) by the Commissioner under this part or (2) by a State or nonprofit private loan insurance program (covered at the time the loan was made by an agreement under section 428 (b))."

TECHNICAL AMENDMENTS

SEC. 418. (a) Section 437 of such Act is amended to read as follows:

"REPAYMENT BY THE COMMISSIONER OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 437. If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan."

(b) Paragraph (1) of section 428(b) is amended (1) by striking out "and" at the end of clause (J) thereof, (2) by striking out the period at the end of clause (K) and inserting "; and" in lieu thereof, and (3) by adding at the end of such paragraph the following new clause:

"(L) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, or (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under title VIII of the Economic Opportunity Act of 1964."

(c) Section 428(e) of such Act is repealed.

(d) Paragraph (1) of subsection (c) of such section 428 is amended by striking out "adjusted family income of the borrower" and inserting in lieu thereof "the borrower's lack of need".

(e) Section 434 of such Act is amended

by striking out "up to 15 per centum of their assets,".

(f) Section 435(a) of such Act is amended by inserting at the end thereof the following: "Notwithstanding any other provision of this part, whenever the Commissioner determines that it is necessary in order to carry out the purposes of this part and after affording an opportunity for a hearing, he is authorized to suspend, limit, or terminate eligibility under this part for any single otherwise eligible institution."

SAVINGS PROVISION

SEC. 419. The amendments made by this part shall not be effective with respect to any loan made after the date of enactment of this Act, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date.

PART C—EXTENSION AND AMENDMENT OF THE WORK-STUDY PROGRAM

STATEMENT OF PURPOSE

SEC. 421. Section 441(a) of the Higher Education Act of 1965 is amended by striking out "from low-income families" and inserting in lieu thereof "with great financial need".

APPROPRIATIONS AUTHORIZATION

SEC. 422. Section 441(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) There are authorized to be appropriated $330,000,000 for the fiscal year 1972, $360,000,000 for the fiscal year 1973, $390,000,000 for the fiscal year 1974, $420,000,000 for the fiscal year 1975, and $450,000,000 for the fiscal yaer 1976 to carry out this part (other than section 447)."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 423. Section 442 of the Higher Education Act of 1965 is amended by redesignating subsection (e) as subsection (b), and by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"SEC. 442. (a) From the sums appropriated to carry out this part, the Commissioner shall reserve the amount provided for in subsection (b) and shall allot the remainder among the States in accordance with section 465."

AUTHORIZING PARTICIPATION OF HALF-TIME STUDENTS IN COLLEGE WORK-STUDY PROGRAM

SEC. 424. Section 444(a)(3)(C) of the Higher Education Act of 1965 is amended (1) by striking out "full time" both times it appears, and (2) by inserting after "student at the institution" and after "attendance there" the following: "on at least a half-time basis".

CONDITIONS OF AGREEMENT

SEC. 425. (a) Section 444(a)(3) of the Higher Education Act of 1965 is amended (1) by striking out "from low-income families" and inserting in lieu thereof the following: "with the greatest financial need, taking into account grant assistance provided such student from any public or private sources", and (2) by amending clause (B) to read as follows: "(B) shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement, and".

(b) Section 444(a) of such Act is amended by striking out paragraph (4).

WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

SEC. 426. Part C of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

"SEC. 447. (a) The purpose of this section is to enable students in eligible institutions who are in need of additional financial support to attend institutions of higher education, with preference given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964, to obtain earnings from employment which offers the maximum potential both for effective service to the community and for enhancement of the educational development of such students.

"(b) There are authorized to be appropriated $50,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out this section through local project grants, without regard to the provisions of section 465.

"(c) The Commissioner is authorized to enter into agreements with public or private nonprofit agencies under which the Commissioner will make grants to such agencies to pay the compensation of students who are employed by such agencies in jobs providing needed community services and which are of educational value.

"(d) An agreement entered into under subsection (c) above shall—

"(1) provide for the part-time employment of college students in projects designed to improve community services or solve particular problems in the community.

"(2) provide assurances that preference will be given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964 in recruiting students in eligible institutions for jobs under this section, and that the agency will make an effort to relate the projects performed by students to their general academic program and to a comprehensive program for college student services to the community.

"(3) conform with the provisions of clauses (A), (B) and (C) of paragraph (1) of section 444(a), and provide for the selection of students who meet the requirements of clauses (A), (B) and (C) of paragraph (3) of section 444(a);

"(4) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this section.

"(e) For purposes of this section, the term 'community service' includes, but is not limited to, work in such fields as environmental quality, health care, education, welfare, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, beautification, and other fields of human betterment and community improvement."

PART D—EXTENSION AND AMENDMENT OF COOPERATIVE EDUCATION PROGRAMS

EXTENSION OF PROGRAM

SEC. 431. (a) Section 451(a) of the Higher Education Act of 1965 is amended by striking out "There are authorized to be appropriated $340,000 for the fiscal year ending June 30, 1969, $8,000,000 for the fiscal year ending June 30, 1970, and $10,000,000 for the fiscal year ending June 30, 1971," and inserting in lieu thereof "There are authorized to be appropriated such sums as may be necessary for the fiscal year 1972, and for each each succeeding fiscal year ending prior to July 1, 1976,".

(b) The second sentence of such section 451(a) of such Act is repealed.

(c) Section 451(b) of such Act is amended by striking out "$750,000 for the fiscal year ending June 30, 1969, and for each of the two succeeding fiscal years," and inserting in lieu thereof "such sums as may be necessary for the fiscal year 1972, and for each fiscal year ending prior to July 1, 1976,".

NEW USE OF FUNDS

Sec. 432. (a) Section 451(b) of the Higher Education Act of 1965 is amended by inserting after "training" the following: ", demonstration,".

(b) Section 453 of such Act is amended by inserting immediately before "or for research" the following: "for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education,".

PART E—AMENDMENTS TO GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

FORMULA FOR ALLOTTING STUDENT FINANCIAL ASSISTANCE FUNDS AMONG STATES

Sec. 441. Part E of title IV of the Higher Education Act of 1965 is amended by inserting after section 464 the following new section:

"ALLOTMENT OF FUNDS TO STATES

"Sec. 465. (a) Subject to the provision of subsection (c) ninety per centum of the sums appropriated for a fiscal year (1) under section 401(b) of this Act, (2) under section 441(b) of this Act (after making the reservation provided for in section 442), or (3) under section 201 of the National Defense Education Act of 1958, for fiscal years ending prior to July 1, 1976, shall each be allotted by the Commissioner among the States as provided in subsection (b).

"(b) In allotting sums under subsection (a), the Commissioner shall allot not to exceed two per centum of each sum being allotted between American Samoa and the Trust Territory of the Pacific Islands according to their respective needs for the assistance for which the sum being allotted was appropriated. The remainder of each sum shall be allotted as follows:

"(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-basis in institutions of higher education in all the States;

"(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States; and

"(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in all the States.

"(c) In the event the allotment to a State for a fiscal year after the fiscal year 1972 from the appropriations described in clause (1), (2), or (3) of subsection (a) plus any amounts allotted under subsection (d), is less than the amount so allotted to such State from the amount so appropriated for the fiscal year 1972, such allotment to the State shall be increased to an amount equal to its allotment from such appropriation for the fiscal year 1972, and the total of the increases thereby required shall be derived by proportionately reducing the allotments of each of the remaining States, but with such adjustments as may be necessary to prevent the allotment from such appropriation to any State from being thereby reduced below its allotment from such appropriation for the fiscal year 1972.

"(d) The sums remaining after making the allotments provided for in subsection (a) of this section shall be allotted among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sum being allotted among the States which will most effectively carry out the purpose for which the funds were

appropriated. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment of funds from the same appropriation under the preceding subsections of this section.

"(e) The portion of any State's allotment under subsections (a), (b), (c), and (d) of this section for a fiscal year which the Commissioner determines will not be required in the State for the purpose for which appropriated may be reallotted by the Commissioner from time to time, on such dates as he may fix, to other States in such manner as he determines will best assist in achieving the purpose for which the funds were appropriated.

"(f) For purposes of this section (other than subsection (g)), the term 'State' does not include American Samoa or the Trust Territory of the Pacific Islands.

"(g) Sums appropriated under section 201 of the National Defense Education Act of 1958 for a fiscal year ending after June 30, 1976, shall be allotted among the States in such manner as the Commissoner determines to be necessary to carry out the purpose for which such amounts were appropriated."

TRANSFER OF FUNDS BETWEEN PROGRAMS

SEC. 442. (a) Effective with respect to fiscal years ending after June 30, 1972, subpart 1 of Part E of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof (after the section added by section 441) the following new sections:

"TRANSFER BETWEEN PROGRAMS

"SEC. 466. Up to 10 per centum of the allotment of an institution of higher education for a fiscal year under section 405 or 442 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Commissioner shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"GUIDELINES

"SEC. 467. Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date."

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENTS IN CERTAIN CASES

SEC. 443. (a) Section 464 of such Act is amended by inserting before the period at the end thereof the following ", except that under special and unusual circumstances the Commissioner is authorized to waive the application of any provision of such an agreement which is required by this section".

(b) The amendment made by subsection (a) shall be deemed to be effective from the date of enactment of the Higher Education Act of 1965.

PART F—SECONDARY MARKET AND WAREHOUSING

SEC. 451. Title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part F:

"PART F—STUDENT LOAN MARKETING ASSOCIATION

"DECLARATION OF PURPOSE

"SEC. 471. Congress hereby declares that it is the purpose of this part to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans and provide liquidity for student loan investments.

"CREATION OF AGENCY

"SEC. 472. (a) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Officers may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(b) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(c) There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association.

"BOARD OF DIRECTORS

"SEC. 473. (a) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(b) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders under this title, seven of educational institutions, and seven of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(c) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(d) At the time the event described in subsection (c) has occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(e) The directors shall serve for a term ending on the date of the next annual meeting of the common stockholders of the Association and, in the case of those directors appointed by the President, until their successors have been appointed and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(f) The Board of Directors shall meet at the call of its chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"FUNCTIONS

"SEC. 474. (a) The Association is authorized subject to the provisions of this part, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured under this part.

"(b) Any advance made under subsection (a) of this section shall not exceed 80 per centum of the face amount of an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"COMMON STOCK

"SEC. 475. (a) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under part B of this title who are qualified as insured lenders under such part or who are eligible institutions as defined in section 435(b) (other than an institution outside the United States).

"(b) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 473(c).

"(c) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary, and, as to the Association, only on the books of the Association. The Secretary shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(d) To the extent that net income is earned and realized, subject to section 476(b), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividend shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"PREFERRED STOCK

"SEC. 476. (a) The Association is authorized, with the approval of the Secretary, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(b) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(c) In the event of any liquidation, dissolution, or winding up the association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"OBLIGATIONS

"SEC. 477. (a) The Association is authorized with the approval of the Secretary and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(b) The Secretary is authorized, on behalf of the United States, to guarantee payment

when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(c) To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"GENERAL POWERS

"SEC. 478. The Association shall have power—

"(a) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(b) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(c) to adopt, amend, and repeal by its board of directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(d) to conduct its business, carry on its operations, and have officers and exercise the power granted by this part in any State without regard to any qualification or similar statute in any State;

"(e) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(f) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(g) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(h) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(i) to enter into contracts, to execute instruments, to incur liabilities, and to do all things necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"AUDIT

"SEC. 479. The accounts of the Association shall be audited at least annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public acountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 1, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury.

"AUDIT REPORT TO CONGRESS

"SEC. 480. A report of each such audit for a fiscal year shall be made by the Secretary to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of the Treasury and to the Association.

"OBLIGATIONS AS LAWFUL INVESTMENT, ACCEPTABLE AS SECURITY

"SEC. 481. All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this part shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"PREPARATION OF OBLIGATIONS

"SEC. 482. In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and other materials, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"ANNUAL REPORT

"SEC. 483. The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"SEPARABILITY

"SEC. 484. If any provision of this part or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the part, and the application of such provisions to other persons or circumstances, shall not be affected.".

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 452. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations or other instruments or securities of the Student Loan Marketing Association," immediately after "or obligations, participation, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (c)), is amended by inserting "or in obligations or other instruments or securities of the Student Loan Marketing Association;" in the second proviso immediately after "any political subdivision thereof".

(d) Section 107(8)(E) of the Federal Credit Union Act, as amended (12 U.S.C. 1957(8)(E)), is amended by inserting before the semicolon at the end thereof the following: ", or in obligations or other instruments or securities of the Student Loan Marketing Association".

PART G—EXTENSION AND AMENDMENT OF TITLE II OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

EXTENSION OF STUDENT LOAN PROGRAM

SEC. 461. The first sentence of section 201 of the National Defense Education Act of 1958 is amended to read as follows: "For the purpose of enabling the Commissioner to stimulate and assist in the establishment at institutions of higher education of funds for the making of low interest loans to students in need thereof to pursue their courses of study in such institutions, there are hereby authorized to be appropriated $425,000,000 for the fiscal year 1972, $475,000,000 for the fiscal year 1973, $575,000,000 for the fiscal year 1974, and $675,000,000 for the fiscal year 1975 and the succeeding fiscal year, to carry out this part, and there are further authorized to be appropriated such sums for the fiscal year 1977, and each of the next three fiscal years, as many be necessary to enable students who have received loans for school years ending prior to July 1, 1976, to continue or complete their education."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 462. Section 202 of the National Defense Education Act of 1958 is amended to read as follows:

"ALLOTMENTS TO STATES

"SEC. 202. The Commissioner shall allot funds appropriated pursuant to section 201 among the States in accordance with section 465 of the Higher Education Act of 1965."

MODIFICATION OF LOAN LIMIT

SEC. 463. Section 205(a) of the National Defense Education Act of 1958 is amended to read as follows:

"SEC. 205. (a) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this title may not exceed $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner, and including any loans from such funds made to such person before he became a graduate or professional student), $5,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Commissioner, and including any loans from such funds made to such person before he became

such a student), and $2,500 in the case of any other student.

ASSIGNMENT OF LOANS IN DEFAULT TO THE COMMISSIONER

SEC. 464. (a) Effective thirty days after the date of enactment of this Act section 204 of the National Defense Education Act of 1958 is amended by striking out "and" at the end of paragraph (3), by renumbering paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) Provide that where a note or written agreement evidencing a loan has been in default for at least one hundred and eighty days despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury."

INCREASE IN MINIMUM RATE OF REPAYMENT

SEC. 465. Section 205(b)(2)(F) of the National Defense Education Act of 1958 is amended by striking out "$15" and inserting "$30."

PROVIDING THAT A VETERAN SHALL BE CONSIDERED SELF-SUPPORTING IN DETERMINING HIS NEED FOR A LOAN

SEC. 466. Section 207 of the National Defense Education Act of 1958 is amended by adding at the end thereof the following new subsection:

"(e) In determining, for purposes of clause (A) of paragraph (1) of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101(2) of title 38, United States Code), is in need an institution shall not take into account the income and assets of his parents."

REIMBURSEMENT IN FULL TO COVER REDUCTIONS

SEC. 467. Section 208 of the National Defense Education Act of 1958 is amended to read as follows:

"PAYMENTS TO COVER REDUCTIONS IN AMOUNTS OF LOANS

"SEC. 208. In addition to the payments otherwise authorized to be made pursuant to this title, the Commissioner shall pay to the appropriate institution, at such time or times as he determines, an amount equal to the interest which, after the effective date of the Higher Education Act of 1971, has been prevented from accruing and the portion of the principal which has been canceled after such effective date on student loans pursuant to paragraph (3) of section 205(b) (and not previously paid under this section)."

REVISION OF PROVISION RELATING TO LOAN FORGIVENESS

SEC. 468. (a) Section 205(b)(3) of the National Defense Education Act of 1958 is amended to read as follows:

"(3) part or all of such loan may be canceled for certain service as a teacher, in accordance with section 210;".

(b) Title II of such Act is amended by adding at the end thereof the following new section:

"CANCELLATION FOR CERTAIN SERVICE AS A TEACHER

"SEC. 210. (a)(1) Fifteen per centum of the total amount of any loan made after June 30, 1972, from a student loan fund established under this title shall be canceled for each complete academic year of service by the borrower—

"(A) as a full-time teacher in an elementary or secondary school described in paragraph (3),

"(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: Provided, That the salary of such staff member is not more than the salary of a comparable employee of a local educational agency, or

"(C) as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system.

"(2) A teacher may receive cancellation of a loan under subparagraph (A) of paragraph (1) only for service in an academic year in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year had been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965, as amended (using a low-income factor of $3,000) exceeds 40 per centum of the total enrollments of the school.

"(b) In the case of a loan made before July 1, 1972, not to exceed 50 per centum of such loan (1) shall be canceled for service as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan for each complete academic year of such service, except that (A) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which there is a high concentration of students from low-income families, except that (unless all of the schools so determined are schools in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of such title (using a low-income factor of $3,000) exceeds 50 per centum of the total enrollment of the school) the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, (B) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purposes of any cancellation pursuant to clause (A) or (B), an additional 50 per centum of any such loan may be canceled, and (2) shall be canceled for service after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan for each year of consecutive service, but only if such loan was made after April 13, 1970.

"(c)(1) If for any academic year any portion of a loan is canceled under subsection (a) or (b), the entire amount of interest on such loan which accrues for such year shall be canceled.

"(2) Nothing in this section shall authorize refunding any repayment of a loan.

"(3) For purposes of this section, the term 'academic year' means an academic year or its equivalent (as determined under regulations of the Commissioner)."

TITLE V—EXTENSION AND AMENDMENT OF EDUCATION PROFESSIONS DEVELOPMENT ACT

PART A—AMENDMENTS TO PART A OF TITLE V

EXTENSION OF NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT AND PROGRAM FOR ATTRACTING QUALIFIED PERSONNEL TO THE FIELD OF EDUCATION

SEC. 501. (a) Section 502(f) of the Higher Education Act of 1965 (the Education Professions Development Act) is amended by striking out "and" after "1968," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

(b) Section 504(b) of such Act is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

PART B—AMENDMENTS TO SUBPART 1 OF PART B

EXTENSION OF TEACHER CORPS PROGRAM

SEC. 511. Section 511(b) of the Higher Education Act of 1965 is amended (1) by striking out "and" after "1970." and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out "1972" and inserting "1977".

PART C—AMENDMENTS TO SUBPART 2 OF PART B

ATTRACTING AND QUALIFYING TEACHERS TO ALLEVIATE TEACHER SHORTAGES

SEC. 521. Section 518(b) of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

VOLUNTEER SERVICE PROGRAMS

SEC. 522. Section 518(a) of the Higher Education Act of 1965 is amended by striking out "the succeeding", and inserting in lieu thereof "each succeeding", and by striking out "and" before "(2)" and by inserting before the period at the end thereof the following: ", (3) encourage volunteers (including high school and college students) for service as part-time tutors or full-time instructional assistants for educationally disadvantaged children, (4) compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, and (5) provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage".

INCREASE IN AMOUNT AVAILABLE FOR ADMINISTRATION

SEC. 523. Section 520(a)(2) of such Act is amended (1) by striking out "and (C)" and inserting in lieu thereof the following: "(C) programs of such agencies to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage, and (D)", (2) by striking out "3 per centum" and inserting in lieu thereof "5 per centum", and (3) by inserting before the semicolon: ", or $20,000, whichever is greater".

ELIMINATING CEILING ON AMOUNT FOR AIDES

SEC. 524. Section 520(a) of such Act is further amended by striking out paragraph (5) and redesignating paragraphs (6), (7), (8) and (9) as paragraphs (5), (6), (7), (8); and (5) thereof (as so redesignated) is amended by inserting after "because he" the following: "is teaching or".

PART D—AMENDMENT TO PART C

EXTENSION OF FELLOWSHIP PROGRAM

SEC. 531. Section 528 of the Higher Education Act of 1965 is amended by striking out "1971" each time it appears and inserting "1976".

FELLOWSHIPS IN SCHOOL NURSING

SEC. 532. Section 521 of the Higher Education Act of 1965 is amended by inserting "school nursing," after "such as library science,"

PART E—AMENDMENTS TO PART D (IMPROVING TRAINING OPPORTUNITIES FOR NON-HIGHER EDUCATION PERSONNEL)

SEC. 541. Section 532 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

SUPPORT OF VOLUNTEER SERVICES PROGRAM

SEC. 542. Section 531(b) of such Act is amended by striking out the period at the end of paragraph (10) and inserting a semicolon, and by adding the following new paragraph at the end thereof:

"(11) programs or projects to encourage volunteers (including high school and college students) for service as part time tutors or full time instructional assistants in preschool, elementary, and secondary school classes, especially for educationally disadvantaged children;"

COMPENSATION OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 543. Section 531(c) of such Act is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon, and by adding the following new paragraph after paragraph (2):

"(3) compensating tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported work-study programs; or"

DEVELOPMENT AND STRENGTHENING PROGRAMS FOR THE EDUCATION OF TEACHERS AND RELATED EDUCATIONAL PERSONNEL

SEC. 544. (a) Section 531(b) of such Act is further amended by adding the following new paragraph at the end thereof:

"(12) programs or projects (including cooperative arrangements or consortium between constituents of higher education and junior and community colleges, or between such institutions and State or local education agencies and nonprofit education associations) for the development, expansion, or improvement of undergraduate programs for preparing educational personnel, including design, development, and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curriculums and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools."

(b) Section 531(c) of such Act is further amended by adding the following new paragraph at the end thereof:

"(4) projects or programs to develop, expand, or improve undergraduate and other programs for training educational personnel."

APPLICATION OF PART D TO INDIAN SCHOOLS

SEC. 545. Section 532 of the Higher Education Act of 1965 is amended by inserting "(a)" after "SEC. 532." and by inserting at the end thereof the following new subsection:

"(b) From the sums appropriated pursuant to subsection (a), the Commissioner may also make payments to the Secretary of the Interior to carry out the policy of this part with respect to persons preparing to serve as teachers of individuals on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior. The terms upon which payments for that purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of this part".

PART F—AMENDMENTS TO PART E—(PROGRAMS OF TRAINING FOR HIGHER EDUCATION PERSONNEL)

SEC. 551. Section 543 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976."

PART G—TRAINING AND DEVELOPMENT OF VOCATIONAL EDUCATION PERSONNEL

SEC. 561. Section 555 of the Higher Education Act of 1965 is amended by striking out "and" after "1971," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

TITLE VI—EXTENSION OR AMENDMENTS OF CERTAIN OTHER PROVISIONS OF LAW

EXTENSION OF PART A OF TITLE III OF NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 601. Section 301 of the National Defense Education Act of 1958 is amended by inserting after "1971," the following: "and for each succeeding fiscal year ending prior to July 1, 1976,", and by striking out "July 1, 1971" and inserting "July 1, 1976".

EXTENSION AND AMENDMENT OF TITLE IV OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 602. (a) The first sentence of section 402(a) of the National Defense Education Act of 1958 is amended by striking out "seven succeeding fiscal years" and inserting in lieu thereof "ten succeeding fiscal years".

(b) Section 403 of such Act is amended to read as follows:

"AWARD OF FELLOWSHIPS AND APPROVAL OF INSTITUTIONS

"SEC. 403. (a) Of the total number of fellowships authorized by section 402(a) to be awarded during a fiscal year (1) not less than one-third shall be awarded to individuals accepted for study in graduate programs approved by the Commissioner under this section, and (2) the remainder shall be awarded on such bases as he may determine, subject to the provisions of subsection (c). The Commissioner shall approve a graduate program of an institution of higher education only upon application by the institution and only upon his finding that the application contains satisfactory assurance that the institution will provide special orientation and practical experiences designed to prepare its fellowship recipients for academic careers at some level of education beyond the high school.

"(b) In determining priorities and procedures for the award of fellowships under this section, the Commissioner shall—

"(1) take into account present and projected needs for highly trained teachers in all areas of education beyond the high school,

"(2) give special attention to those institutions which have developed new doctoral-level programs especially tailored to prepare classroom teachers,

"(3) consider the need to prepare a larger number of teachers and other academic leaders from minority groups, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of persons of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of persons of that group in any community, State, section, or other area,

"(4) assure that at least one-half of all new fellowship recipients have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies,

"(5) allow a fellowship recipient to interrupt his studies for up to one year for the purpose of work, travel, or independent study away from the campus, except that no stipend or travel expenses may be paid for such period, and

"(6) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

"(c) Recipients of fellowships under this title shall be persons who are interested in an academic career in educational programs beyond the high school and are pursuing, or intend to pursue, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree.

"(d) No fellowship shall be awarded under this title for study at a school or department of divinity. For the purposes of this subsection, the term 'school or department of divinity' means an institution or department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects."

(c) Section 404(b) of such Act is amended to read as follows:

"(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, in lieu of tuition charged such person, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount shall not exceed $4,000 per academic year for any such person."

EXTENSION AND EXPANSION OF TITLE VI OF THE NATIONAL DEFENSE EDUCATION ACT

SEC. 603 (a) Section 601(a) of the National Defense Education Act of 1958 is amended to read as follows:

"(a) The Secretary is authorized to make grants to or contracts with institutions of higher education for the purposes of establishing, equipping, and operating graduate and undergraduate centers and programs for the teaching of any modern foreign language, for instruction in other fields needed to provide a full understanding of the areas, regions, or countries, in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study. Any such grant or contract may cover all or part of the cost of the establishment or operation of a center or program, including the costs of faculty, staff, and student travel in foreign areas, regions, or countries, and the costs of travel of foreign scholars to teach or conduct research, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section."

(b) Section 601(b) of such Act is amended to read as follows:

"(b) The Secretary is also authorized to pay stipends to individuals undergoing ad-

vanced training in any center or under any program receiving Federal financial assistance under this title, including allowances for dependents and for travel for research and study here and abroad but only upon reasonable assurance that the recipients of such stipends will, on completion of their training, be available for teaching service in an institution of higher education or elementary or secondary school, or such other service of a public nature or may be permitted in the regulations of the Secretary."

(c) Section 601 of such Act is further amended by adding a new subsection (c) to read as follows:

"(c) No funds will be expended under the title for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study."

(d) Section 603 of such Act is amended by striking out "and" after "1970," and by inserting after "1971," the following: "such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF THE INTERNATIONAL EDUCATION ACT OF 1966

SEC. 604. Section 105(a) of the International Education Act of 1966 is amended by striking out "and" after "1968," and by inserting after "1971" the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAM TO ASSIST INSTITUTIONS IN THE ACQUISITION OF EQUIPMENT

SEC. 605. (a) Section 601(b) of the Higher Education Act of 1965 is amended by striking out "two" and inserting in lieu thereof "seven".

(b) Section 601(c) of such Act is amended by striking out "two succeeding fiscal years" and inserting "seven succeeding fiscal years".

EXTENSION OF NETWORKS FOR KNOWLEDGE PROGRAMS

SEC. 606. Section 802 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

EXTENSION OF PUBLIC SERVICE EDUCATION PROGRAMS

SEC. 607. Section 925 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAMS FOR IMPROVEMENT OF GRADUATE EDUCATION

SEC. 609. Section 1002(a) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

SEC. 610. Section 1103 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting after "of the fiscal years ending June 30, 1970, and June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

TITLE VII—HIGHER EDUCATION FACILITIES

PART A—EXTENSION AND AMENDMENT OF HIGHER EDUCATION FACILITIES ACT OF 1963

EXTENSION OF UNDERGRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 701. (a) Section 101(b) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1968," and inserting after "1971," the following "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out the second sentence thereof.

(b) Section 105(b) of such Act is amended by striking out "and" after "1966," and by inserting after "succeeding fiscal years" the following: "and such sums as may be necessary for each succeeding fiscal year ending before July 1, 1976,".

EXTENSION OF GRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 702. Section 201 of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967," and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

EXTENSION OF CONSTRUCTION LOANS AND ANNUAL INTEREST GRANT PROGRAMS

SEC. 703. Section 303(c) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967," and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

ARCHITECTURAL AND DESIGN STANDARDS

SEC. 704. The last sentence of section 401(a)(1) of the Higher Education Facilities Act of 1963 is amended by inserting after "Act" the following: "(1) have due consideration for excellence of architecture and design consistent with economical construction, and (2)".

AUTHORIZING THE SECRETARY FOR GOOD CAUSE TO RELEASE AN INSTITUTION FROM ITS OBLIGATION TO USE A FACILITY FOR TWENTY YEARS FOR THE PURPOSES FOR WHICH CONSTRUCTED

SEC. 705. Section 404(b) of the Higher Education Facilities Act of 1963 is amended by inserting "unless the Secretary determines that there is good cause for releasing the institution from its obligation" immediately after "section 401(a)(2),".

PROHIBITION ON USE OF FACILITIES FOR RELIGIOUS PURPOSES

SEC. 706. Section 404 of the Higher Education Facilities Act of 1963 is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under title I and II of this Act shall ever be used for religious worship or sectarian instruction or for a school or department of divinity."

PART B—NEW PROGRAM OF INSURED LOANS FOR CONSTRUCTION OF NONPROFIT PRIVATE ACADEMIC FACILITIES

SEC. 711. Title III of the Higher Education Facilities Act of 1963 is amended by inserting immediately after section 306 the following:

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 307. (a) In order to assist nonprofit private institutions of higher education and nonprofit private higher education building agencies to procure loans for the construction of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 306 for the making of annual interest grants under such section.

"(b) No loan insurance under subsection (a) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

"RIGHT OF RECOVERY AND INCONTESTABLE NATURE OF INSURANCE

"SEC. 308. (a) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under section 307 the amount of any payment made pursuant to that insurance, unless the Commissioner for good cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(b) Any insurance issued by the Commissioner pursuant to section 307 shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

"CONDITIONS

"SEC. 309. Insurance may be issued by the Commissioner under section 307 only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under sections 307 and 308. Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary."

MAKING REVOLVING LOAN FUND AVAILABLE FOR LOAN INSURANCE

SEC. 712. (a) Section 305 of such Act is amended—

(1) by striking out the heading therefor and inserting "Revolving Loan and Insurance Fund" in lieu thereof;

(2) by inserting "and loan insurance" immediately after "academic facilities loans" in the first sentence thereof; and

(3) by inserting "or loan insurance" immediately following "any loans" in the second sentence thereof. (b) Section 303(c) of such Act is amended—

(1) by inserting "and may insure loans" immediately after "academic facilities" in the first sentence thereof; and

(2) by inserting "and for insurance" immediately after "for loans" in the last sentence thereof.

EFFECTIVE DATE

SEC. 713. The amendments made by section 711 shall be effective July 1, 1972, and the amendments made by section 712 shall be effective as if enacted on the date of enactment of section 305 of such Higher Education Facilities Act of 1963.

TITLE VIII—HIGHER EDUCATION GENERAL ASSISTANCE

SEC. 801. The Higher Education Act of 1965 is amended by inserting after title XI the following new title:

"TITLE XII—GENERAL ASSISTANCE FOR HIGHER EDUCATION

"PART A—INSTITUTIONAL ASSISTANCE

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1201. The Congress hereby finds and declares that an emergency condition has arisen which threatens the continued ability of many institutions of higher education to provide the education necessary to enable our citizens to make their full contribution to the Nation's economic and cultural devel-

opment. It is therefore the purpose of this part to meet this critical need through general assistance from the Federal Government as provided in this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1202. There is hereby authorized to be appropriated for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out the program of assistance to institutions of higher education under this part, an amount equal to the aggregate amount determined for all institutions of higher education for that year under paragraphs (2) and (3) of section 1203(a). Of the amount so appropriated for a fiscal year, two-thirds shall be available only for general education assistance grants under section 1203(a) and one-third shall be available for cost of education grants under section 1203(b).

"ASSISTANCE

"SEC. 1203. (a)(1) From two-thirds of the sums appropriated under section 1202 for a fiscal year, the Commissioner shall make a general assistance grant for such fiscal year to each institution of higher education in an amount not exceeding that applied for by such institution or in an amount determined under paragraphs (2) and (3), whichever is the lesser. Such a grant may be made only if any application therefor has been approved in accordance with section 1204.

"(2) Subject to paragraph (4), the amount of the grant to which an institution is entitled under this subsection for a fiscal year shall be the aggregate of—

"(A) the product obtained by multiplying $100 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the first two years of post-secondary education at the institution,

"(B) the product obtained by multiplying $150 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the upper division of the institution defined as the last two academic years of instruction at the baccalaureate level in an institution awarding such degrees, and

"(C) the product obtained by multiplying $200 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students who are pursuing a program of post-baccalaureate study.

"(3) Subject to paragraph (4), in addition to the amounts to be paid under paragraph (2), an institution shall be entitled to an additional $300 for each of 200 students and an additional $200 for each of 100 additional students of the total full-time enrollment of such institution.

"(4) If two-thirds of the sums appropriated for any fiscal year for making grants under this part are not sufficient to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as two-thirds of the sums so appropriated bears to the total amount all institutions are entitled to receive under this subsection.

"(5) Determinations of enrollment under this subsection shall be made on the basis of credits earned by students at the institutions during the academic year ending during the second fiscal year preceding the fiscal year for which the determination is made. The Commissioner shall by regulation prescribe (1) the number of earned credits which constitute enrollment on a full-time basis, and (2) a definition of 'credit' to be used for such determinations which shall be substantially uniform for all institutions.

"(b)(1) From one-third of the sums appropriated under section 1202 for any fiscal year, the Commissioner shall, subject to paragraph (2), make a grant to each institution of higher education in an amount equal to 38 per centum of the aggregate of educational opportunity grants and work-study payments under title IV of this Act and loans under title II of the National Defense Education Act of 1958 made for such year to students who are enrolled in such institution plus the amount attributable to veterans in such institution as determined under subsection (3), except that—

"(A) such grant shall be equal to 50 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year did not exceed one thousand,

"(B) such grant shall be equal to 46 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded one thousand, but did not exceed three thousand, and

"(C) such grant shall be equal to 42 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded three thousand, but did not exceed ten thousand.

"(2) If one-third of the sums appropriated for any fiscal year for making grants under this part are more than or less than the amount necessary to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as one-third of the sums so appropriated bears to the total amounts all institutions are entitled to receive under this subsection.

"(3) The amount attributable to veterans for purposes of paragraph (1) of this subsection shall be determined, in the case of each institution of higher education, by multiplying the number of veterans enrolled in such institution who have not completed one full academic year at an institution of higher education and who—

"(1) served on active duty in the Armed Forces for at least one hundred and eighty days after August 4, 1964, and

"(2) are receiving an educational assistance allowance under section 1682 of title 38, United States Code, or are receiving vocational rehabilitation under section 1502 of such title,

by an amount equal to (A) 40 per centum of the educational assistance allowance which would be paid them if they had no dependents, in the case of veterans receiving payments under section 1682, or (B) the amount of tuition and fees paid on their account in the case of veterans being furnished vocational rehabilitation under section 1502.

"APPLICATIONS

"SEC. 1204. An institution of higher education may receive a grant under this part only if it submits an application therefor at such time and in such manner as the Commissioner shall prescribe by regulations. The application may be approved if the Commissioner determines that the application—

"(1) describes general educational goals and specific objectives of the institution and the amount of institutional income needed to meet such goals and objectives,

"(2) provides satisfactory assurance that—

"(A) the proceeds of the grant will be used for programs of the applicant institution consistent with such goals and objectives,

"(B) current operating support from non-Federal sources for educationally-related programs of the institution has not been reduced in anticipation of funds to be received under this part,

"(C) the applicant will make such reports as the Commissioner may require, including a summary report describing how the grant was expended and an evaluation of its effectiveness; and

"(3) contains such provisions as the Commissioner may require by regulation in order to protect the financial interest of the United States.

The Commissioner may waive the requirements of paragraph (2)(B) for any institution for any fiscal year if he determines such waiver would promote the purposes of this part.

"REPORT BY COMMISSIONER TO CONGRESS

"SEC. 1205. The Commissioner shall report to Congress within 120 days after the close of each fiscal year regarding the effectiveness of assistance under this part in meeting the goals and objectives of institutions of higher education and in encouraging diversity and autonomy among such institutions. The Commissioner shall also make such recommendations as seem appropriate regarding continuation, modification or extension of assistance under this part.

"LIMITATIONS

"SEC. 1206. No grant under this part may be made to, or used to support, a school or department of divinity or for religious worship or sectarian instruction. For purposes of this section, the term 'school or department of divinity' means an institution or department or branch of an institution whose program is specifically for the education of students to prepare them to be ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

"DEFINITIONS

"SEC. 1207. For purposes of this part—

"(1) The term 'institution of higher education' means an institution described in the first sentence of section 1601(a) of this title. A branch of an institution of higher education which is located in a community different from that of its parent institution shall be treated as a separate institution.

"(2) The term 'baccalaureate degree' means an undergraduate degree which normally requires at least four but not more than five years of full-time enrollment in an academic program for credit.

"PART B—NATIONAL COMMISSION ON FINANCING OF POSTSECONDARY EDUCATION

"PURPOSE

"SEC. 1211. (a) It is the purpose of this part to authorize a study of the impact of past and present support and the appropriate level of future support for postsecondary education from private sources and from Federal, State, and local governments.

"(b) In order to give the States and the Nation the information needed to assess the dimensions of, and extent of, the financial crisis confronting the Nation's postsecondary institutions the study shall determine the need, the desirability, the form and the level of additional governmental and private assistance. Such study shall include but not be limited to (1) an analysis of the existing programs of aid to institutions of higher education, various alternative proposals presented to the Congress to provide assistance to institutions of higher education, as well as other viable alternatives which, in the judgment of the Commission merit inclusion in such a study; (2) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions; and (3) the extent to which each would advance the national goal of making postsecondary education accessible to all individuals, including returning veterans, having the desire and ability to continue their education.

"ESTABLISHMENT OF COMMISSION

"SEC. 1212. (a) There is hereby established, as an independent agency within the executive branch, a National Commission on the Financing of Postsecondary Education (hereinafter referred to as the 'Commission').

"(b) The Department of Health, Education, and Welfare shall provide the Commission with necessary administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) for which payment shall be made in advance, or by reimbursement, from funds of the Commission and such amounts as may be agreed upon by the Commission and the Secretary of Health, Education, and Welfare.

"CONTRIBUTIONS

"SEC. 1213. (a) The Commission shall have authority to accept in the name of the United States, grants, gifts or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"FUNCTIONS

"SEC. 1214. In conducting such a study, the Commission shall consider:

"(1) the nature and causes of serious financial distress facing institutions of postsecondary education; and

"(2) alternative models for long range solutions to the problems of financing postsecondary education with special attention to the potential Federal, State, local, and private participation in such programs, including, but not limited to—

"(A) the assessment of previous related private and governmental studies and their recommendations;

"B) the determination of the annual per student cost of providing postsecondary education for students in attendance at various types and classes of postsecondary institutions;

"(C) existing state and local programs of aid to postsecondary institutions;

"(D) the level of endowment, private sector support and other incomes of postsecondary institutions and the feasibility of Federal and State income tax credits for charitable contributions to postsecondary institutions;

"(E) the level of Federal support of postsecondary institutions through such programs as research grants, and other general and categorical programs; and

"(F) alternative forms of student assistance, including but not limited to loan programs based on income contingent lending, loan programs which utilize fixed, graduated repayment schedules, loan programs which provide for cancellation of referment of all or part of repayment in any given year based on a certain level of a borrower's income; and existing student assistance programs including but not limited to those administered by the U.S. Office of Education, the Social Security Administration, and the Veterans' Administration.

"REPORT TO CONGRESS

"SEC. 1215. Not later than June 30, 1973, the Commission shall make a final report to the President and Congress on the results of the investigation and study authorized by this part, together with such findings and recommendations, including recommendations for legislation, as they deem appropriate. An interim report shall be due no later than December 31, 1972. The Commission may release such other reports and studies at any time that it may desire.

"CONTRACT AUTHORITY

"SEC. 1216. In order to carry out the provisions of this part, the Commission is authorized to:

"(1) enter into contracts with institutions of postsecondary education and other appropriate individuals, public agencies and private organizations;

"(2) appoint and fix the compensation of such personnel as may be necessary;

"(3) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(4) utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local, and private agencies with or without reimbursement; and

"(5) consult with the heads of such Federal agencies as they deem appropriate.

"HEARINGS

"SEC. 1217. (a) The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this part.

"(b) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this part.

"MEMBERSHIP

"SEC. 1218. (a) The Commission shall be composed of—

"(1) two Members of the Senate who shall be members of different political parties and who shall be appointed by the President of the Senate;

"(2) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

"(3) not to exceed thirteen members appointed by the President not later than ninety days after the date of enactment of this Act. Such members shall be appointed from:

"(i) members of State and local educational agencies;

"(ii) State and local government officials;

"(iii) education administrators from private and public higher education institutions and community colleges;

"(iv) teaching faculty;

"(v) financial experts from the private sector;

"(vi) students;

"(vii) the Office of Education; and

"(viii) other appropriate fields.

"(b) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(c) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(d) The terms of office of the appointive members of the Commission shall expire after submission of the final report.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1219. There are hereby authorized to be appropriated $500,000 for the fiscal year 1972, and $1,000,000 for the fiscal year ending 1973, for the purpose of carrying out the provisions of this part."

TITLE IX—PROHIBITION OF DISCRIMINATION

SEC. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that this subsection shall not apply—

(1) to the undergraduate admissions policy of any institution of higher education,

(2) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or

(3) to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization.

(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) For purposes of this section an educational institution means any pre-school, elementary or secondary school, or any institution of higher education, except that in the case of an institution of higher education composed of more than one school or college which is an administratively separate unit, such term means each such school or college.

SEC. 902. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 901 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 903. Any department or agency action taken pursuant to section 902 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 902, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed com-

mitted to unreviewable agency discretion within the meaning of section 701 of that title.

SEC. 904. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 905. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance, or guaranty.

SEC. 906. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity: *Provided, however,* That nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

SEC. 907. (a) Clause (1) of section 701(b) of the Civil Rights Act of 1964 is amended by inserting after "thereof" the following: "(except with respect to employees of a State, or a political subdivision thereof, employed in an educational institution)".

(b) Section 702 of title VII of the Civil Rights Act of 1964 is amended by the insertion of a period after "religious activities" and the deletion of the remainder of the sentence.

SEC. 908. Section 13(a) of the Fair Labor Standards Act of 1938 is amended by the insertion after the words "the provisions of sections 6" of the following: "(except section 6(d) in the case of paragraph (1))."

SEC. 909. (a) Subsection (1) of section 3(r) of the Fair Labor Standards Act of 1938 is amended by the deletion of the words "an elementary or secondary school" and the insertion of the words "a pre-school, elementary or secondary school".

(b) Section 3(s)(4) of such Act is amended by deleting "an elementary or secondary school" and inserting "a pre-school, elementary or secondary school".

SEC. 910. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed as to prohibit any educational institution receiving fund under this act, from maintaining separate living facilities for the different sexes.

TITLE X—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

SEC. 1001. The Higher Education Act of 1965 adding after title XII the following new title:

"TITLE XIII—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

"SEC. 1301. The Congress, in recognition of the profound impact of mineral exploration and development on the health and safety of persons working in the mineral industries and on the interrelations of all facets of the natural environment, including, but not limited to, ground subsidence, mine fires, air and water resources, and fish and wildlife, and on outdoor recreation, aesthetic, agricultural, and other similar values of national, regional, and local significance, and in recognition of the fact that the prosperity and future welfare of the Nation is dependent, in large measure, on the sound exploration, extraction, processing and development of its unrenewable mineral resources, declares that it is the purpose of this title to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists (a) for the mineral industries engaged in research, investigations, experiments, demonstrations, exploration, extraction, processing, developing, and production of such resources in a manner consistent with the need to protect and enhance the quality of the total environment, and (b) for the public agencies concerned with such mineral activities, with the health and safety of persons employed in such industries, and with the protection and enhancement of the total environment.

"SEC. 1302. (a) The Commissioner is authorized to make, in accordance with the provisions of this title, grants each fiscal year, for establishing and carrying out the work of a competent and qualified mineral resources conservation institute, center, or equivalent agency (hereinafter referred to as an 'institute'), to such institutions of higher education as he may select, not to exceed ten in the Nation, and selected so as to serve the needs of a region, which shall be an institution of higher education established in accordance with sections 1 through 5, 7, and 8, of the Act of July 2, 1862, as amended (7 U.S.C. 30–305, 307 and 308), or some other institution of higher education designated by the Governor of the State within which the institution is located. Institutions of higher education selected under this subsection are encouraged to cooperate with other such institutions in participating in the work of the institute.

"(b) The Commissioner shall approve any application or any modification thereof submitted annually under this section by a designated institute, which he finds, in consultation with the Secretary of the Interior—

"(1) sets forth a plan to provide for the training, consistent with the purpose of this title, of individuals as mineral engineers and scientists under a four-year undergraduate curriculum appropriate to the field of mineral resources and mineral engineering and related fields of environmental control, and to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to the exploration, extraction, processing, development, and conservation of mineral resources, to the solution of current and emerging problems of minerals technology, and to the protection and enhancement of health and safety of persons employed in the minerals industries and of the total environment affected by mineral operations;

"(2) gives assurances that such institute has or will promptly employ an adequate and competent faculty and administrative personnel;

"(3) sets forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may require, in consultation with the Secretary of the Interior, and, for keeping such records and for affording access thereto; and

"(6) meet such additional conditions and regulations as the Commissioner may from time to time prescribe consistent with the purpose of this title.

"(c) In approving applications under subsection (b) of this section, the Commission shall require the institute to show that its program of mineral research, investigations, demonstrations, and experimental projects has been developed so as to avoid, having due regard to the varying conditions and needs of each State or region, (1) undue displacement of mineral scientists and engineers engaged in such activities, and (2) duplication, to the greatest extent possible, of such mineral projects conducted or being conducted by Federal or State agencies or other institutes.

"(d) There are authorized to be appropriated to the Commissioner for grants under this section for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to pay not to exceed $500,000 annually of the estimated cost of establishing and carrying out the work of an institute. The Commissioner shall provide for an equitable distribution of sums appropriated for such grants. Such sums shall remain available until expended. The institute shall assume indirect costs. A minimum of 20 per centum of such grant shall be designated for scholarships, graduate fellowships, and postdoctoral fellowships.

"SEC. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industrywide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title.

"(b) Each application for a grant under this section and section 1304 of this title shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualification of the personnel who will direct and conduct it, the estimated cost, the extent of participation by nongovernmental sources in the project, including the identification of the participants, the importance of the project to the Nation, region, or State, and its relation to other known research projects theretofore pursued or being pursued. The Secretary of the Interior shall review each such application and shall make recommendations thereon to the Commissioner within thirty days after receipt of such application concerning the adequacy and merit of the project, the knowledge which it is expected to produce when completed, and such other matters as he deems appropriate. The Commissioner shall not make any grant for a project which the Secretary of the Interior recommends disapproval of, or which, in the judgment of the Commissioner, does not provide an adequate opportunity to train individuals as mineral engineers and scientists consistent with the purpose of this title.

"(c) In making grants under this section, the Commissioner shall prescribe such terms and conditions consistent with the purposes of this title.

"SEC. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior, make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this title.

"Sec. 1305. No research, demonstrations, or experiments shall be carried out under this title by an institute financed by grants under this title, unless all information, uses, products, processes, patents, and other developments resulting therefrom (with such exception or limitation, if any, as the Commis-

sioner may find to be necessary in the public interest) be made available promptly to the general public. Funds appropriated under this title shall be available for printing and publishing the results of activities carried out with the assistance of such funds by institutes and for administrative planning and direction.

"Sec. 1306. To assure that any institute established under this title is adequately equipped to train individuals, the Commissioner may make grants to each institute to pay 50 per centum of the cost of purchasing equipment and supplies. The equipment and supplies so purchased shall be used primarily for the education and training of individuals consistent with the purposes of this title. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to remain available until expended, to carry out the purposes of this section.

"Sec. 1307. (a) The Commissioner shall appoint an advisory committee on mineral research composed of—

"(1) the Director of the National Science Foundation, or his delegate, with his consent;

"(2) the President, National Academy of Sciences, or his delegate, with his consent;

"(3) the President, National Academy of Engineering, or his delegate, with his consent;

"(4) the Director, Bureau of Mines, or his delegate, with his consent; and

"(5) such other persons as the Commissioner may appoint who are knowledgeable in the field of mineral research and its impact on health and safety and the quality of the environment.

"(b) The Commissioner shall designate the chairman of the committee. The advisory committee shall consult with, and make recommendations to, the Commissioner and the Secretary of the Interior on matters involving or relating to the purpose of this title. The Commissioner and the Secretary of the Interior shall consult with, and consider recommendations of, such committee in the conduct of mineral research and development and the making of any grant under this title."

TITLE XI—SPECIAL ASSISTANCE FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

Sec. 1101. In order to enable the Commissioner of Education to make grants to the College of the Virgin Islands and the University of Guam in recognition of the fact that such institutions and the areas they serve do not receive the support afforded land-grant colleges, there is authorized to be appropriated the sum of $3,000,000 for each such institution to be used as an endowment, and the sum of $450,000 for each such institution for the fiscal year 1973, and each succeeding fiscal year, for strengthening higher education, including community service programs, in the areas they serve.

TITLE XII—EVALUATION

SEC. 1201. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

"TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"SEC. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS"

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1301. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1302. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1303. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1304. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1308 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1305. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1306(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section; and

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of

the term for which his predecessors was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1307. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of Title 31, U.S.C., to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, Territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as deemed necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5a. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1308. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waiver any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1309. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

TITLE XIV—OCCUPATIONAL EDUCATION

SEC. 1401. This title may be cited as the "Occupational Education Act of 1971".

FINDINGS AND STATEMENT OF PURPOSES

SEC. 1402. The Congress finds and declares that—

(a) our educational system should be responsible for assuring that every young person leaving secondary school is prepared for and assisted in placement either in productive employment or in further education at the postsecondary level;

(b) the opportunity for postsecondary occupational education in programs which do not directly lead to a baccalaureate or advanced academic degree is severely limited in many parts of the Nation and is everywhere inadequate to meet existing needs, and that this situation adversely affects vital national economic and social goals;

(c) high-quality programs of postsecondary occupational education can be found in a wide variety of institutions, including public and private community and junior colleges, area vocational schools, technical institutes, private proprietary schools, college and university branches, and colleges and universities, and Federal support should encourage the utilization of all such facilities to meet the enormous needs in this field;

(d) the goals and purposes of the Congress in enacting the Vocational Education Act of 1963 and the amendments to that Act of 1968 cannot be realized until there is a widespread understanding of and support for occupational preparation in the general academic community which in turn is reflected in changed attitudes, curriculums, and practices in elementary and secondary schools; and

(e) the foregoing purposes and those of the Vocational Education Act Amendments of 1968 and related Acts cannot be realized without strong leadership and exemplary administration at the Federal level.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 1403. For the purpose of carrying out part A of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year 1972, $250,000,000 for the fiscal year 1973, $500,000,000 for the fiscal year 1974, and for each fiscal year thereafter such sums as may be necessary to assure that the purposes of this title are realized. From the sums appropriated for the fiscal year 1972, 80 per centum shall be available for the purposes of establishing a plan for administration under section 1413, making planning grants under section 1415, and for initiating programs under section 1416 in those States which have complied with the planning requirements of section 1415; and 20 per centum shall be available only for technical assistance under section 1418(a). From the amount appropriated for each succeeding fiscal year 85 per centum shall be available for grants to the States for carrying out part A, and 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1418.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

SEC. 1404. (a) From the sums available for the fiscal year 1972, for allotment to the States under section 1403 the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums available for any fiscal year beginning after June 30, 1972, for allotment to the States under section 1403, the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $1,000,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States needs and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year.

PART A—OCCUPATIONAL EDUCATION PROGRAMS

FEDERAL ADMINISTRATION

SEC. 1410. The Secretary of Health, Education, and Welfare shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this title;

(3) promote and encourage the coordination of programs developed under this title with those supported under the Vocational Education Act 1963, the Manpower Development and Training Act 1962, title I of the Economic Opportunity Act 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this title and of related Acts.

GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1411. The Commissioner of Education shall, in addition to the specific responsibilities imposed by this title, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which relate to or have an effect upon occupational education so as to provide the maximum practicable support for the objectives of this title;

(2) promote and encourage the infusion into our system of elementary and secondary education of occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational education programs as a responsibility of the schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

ESTABLISHMENT OF BUREAU OF OCCUPATION EDUCATION

SEC. 1412. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963 including parts C and I, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b) (1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions at least two of which shall be filled by persons with broad experience in the field of post-secondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

STATE ADMINISTRATION

SEC. 1413. (a) Any State desiring to participate in the program authorized by this title shall in accordance with State law designate or establish a State agency which will have sole responsibility for fiscal management and administration of the program, and which will provide assurances satisfactory to the Commissioner that—

(1) such State agency shall submit to the Commissioner a plan of administration which makes adequate provision for effective participation in the planning, design, administration, and evaluation of the program authorized by this title of persons with broad experience in the fields of—

(A) public and private community and junior college education,

(B) postsecondary vocational and technical education,

(C) occupational education in private, proprietary institutions,

(D) economic and industrial development,

(E) manpower development and training,

(F) academic education at the college and university level,

(G) secondary vocational and technical education,

(H) elementary and secondary education,

(I) elementary and secondary counseling and guidance, and

(J) industry, commerce, and labor.

(2) the State Advisory Council for Vocational Education will be charged with the same responsibilities with respect to the program authorized by this title as it has with respect to programs authorized under the Vocational Education Act of 1963;

(3) there is an administrative device which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this title; and

(4) there is adequate provision for individual institutions of groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this title with which such institution or institutions or such agency disagree.

(b) The Commissioner shall approve any plan of administration which meets the requirements of subsection (a), and shall not finally disapprove any plan without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any plan, the provisions for judicial review set forth in section 1417(b) shall be applicable.

AUTHORIZATION OF GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1414. From the sums made available for grants under this section pursuant to sections 1403 and 1404, the Commissioner is authorized to make grants to the States to assist them in planning and administering high-quality programs of post-secondary occupational education which will be available to all persons in all parts of the State who desire and need such education, and to promote occupational orientation and education in the regular elementary and secondary school programs.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1415. (a) Upon the application of a State under section 1413, the Commissioner shall make available to the State the amount of its allotment under section 1404 for the following purposes—

(1) to assist the State administrative agency established in meeting the requirements of section 1413;

(2) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this title; and

(3) to enable the agency designated or established under section 1413 to initiate and conduct a comprehensive program of planning for the establishment and carrying out of the program authorized by this title.

(b) (1) Planning activities initiated under clause (3) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of post-secondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs funded under this title, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) the design of high-quality instructional programs to meet the needs for post-secondary occupational education and the development of an order of priorities for placing these programs in operation;

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in post-secondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried out under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1416 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1416. (a) From the allotments available to the States under section 1404(b) (upon application by the State administrative agency designated or established under section 1413), the Commissioner shall make grants to any State which has satisfied the requirements of section 1417. Such grants may be used for the following purposes—

(1) the design, establishment, and conduct of programs of postsecondary occupational education (or the expansion and improvement of existing programs) as defined by section 1420 of this title;

(2) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1415 (b) (1) (D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(3) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this title (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions);

(4) planning and evaluation activities designed pursuant to section 1415(b) (1) (E); and

(5) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this title.

(b) Programs authorized by this title may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this title by providing substantially equivalent education, training or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this title which would not otherwise be available.

ASSURANCES; JUDICIAL REVIEW

SEC. 1417. (a) Before making any program grant under this title the Commissioner shall receive from the State administrative agency assurances satisfactory to him that—

(1) the planning requirements of section 1415 have been met;

(2) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(3) Federal funds made available under this title will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(4) adequate provision has been made by such agency for programs described in section 1416(a) (2);

(5) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this title;

(6) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this title, provision has been made for the effective participation of such students; and

(7) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title.

(b) (1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the title, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this title until he is satisfied that there has been or will be compliance with the requirements of the title.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1413 (respecting approval of a State plan for administration) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

SEC. 1418. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this title upon the request of any State administrative agency designated or established pursuant to section 1413, and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provisions of this title and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1403, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this title and which might otherwise not be carried out (or be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the title);

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes of this title which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this title which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations.

PAYMENTS

SEC. 1419. Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

DEFINITIONS

SEC. 1420. For the purpose of this title—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1404) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "post-secondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide post-secondary education within a State, which is designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations) or to prepare individuals for enrollment in advanced technical education programs, but excluding any programs to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which require a baccalaureate or advanced degree.

PART B—CONFORMING AND SUPPORTING AMENDMENTS TO OTHER ACTS

SEC. 1430. (a) Section 203(a)(3) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of clause (B), striking out the semicolon at the end of clause (C) and inserting in lieu thereof ", and", and by inserting a new clause as follows:

"(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education."

(b) Section 303(b)(3) of such Act is amended by redesignating clauses (C), (D), (E), (F), (G), (H), (I), and (J), respectively, as clauses (D), (E), (F), (G), (H), (I), (J), and (K), and by inserting a new clause as follows:

"(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;".

(c) Section 503(4) of such Act is amended by redesignating clauses (A), (B), and (C), respectively, as clauses (B), (C), and (D), and by inserting a new clause as follows:

"(A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education,".

SEC. 1431. (a) Section 104(a)(2) of the Vocational Education Act of 1963 (relating to the duties of the National Advisory Coun-

cil on Vocational Education) is amended by inserting after "under this title" each time it appears ", and under part A of the Occupational Education Act of 1971,".

(b) Section 104 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting a new subsection as follows:

"(c) State advisory councils also shall perform with respect to the programs carried out under part A of the Occupational Education Act of 1971 functions identical with or analogous to those assigned under this title, and the Commissioner shall assure that adequate funds are made available to such Councils from funds appropriated to carry out part A of that title (without regard to whether such funds have been allotted to States) to enable them to perform such functions."

TITLE XV—STATE POSTSECONDARY EDUCATION COMMISSIONS

SEC. 1501. (a) Any State may designate or create a State agency or commission which is broadly and equitably representative of the public and of the public and private nonprofit and proprietary institutions of postsecondary education including community and junior colleges, technical institutes, four year institutions of higher education and branches thereof providing postsecondary academic and/or vocational and occupational training, in the State.

(b) (1) The Commissioner is authorized to make grants to State agencies or commissions designated or created pursuant to subsection (a) to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(2) The Commissioner is further authorized to make grants to such State agencies or commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include consideration of a system of community service institutions as a means of achieving such purpose.

(3) The Commissioner shall make technical assistance available to such State agencies or commissions to assist them in achieving the purposes set forth in paragraphs (1) and (2).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1502. (a) Each State agency or commission (established under section 1501) may establish a committee (hereinafter in this section referred to as the committee), the membership of which shall include representatives of—

(1) all State agencies having responsibility or an interest in postsecondary education;

(2) community and junior colleges, four-year institutions of higher education and branches thereof, technical institutes, proprietary institutions, vocational schools, comprehensive secondary schools, adult education agencies, and State manpower agencies providing postsecondary academic and/or vocational and occupational training; and

(3) the general public, labor unions, business and industry, and agriculture.

(b) The committee may develop and adopt a statewide plan for the expansion and improvement of community postsecondary education programs. Such plan may—

(1) designate areas of the State in which residents do not have access to occupational education, continuing education, and community service institutions of postsecondary education within reasonable commuting distance;

(2) designate areas of the State in which existing community service institutions cannot meet the postsecondary educational needs of the residents;

(3) set forth a statewide plan for the establishment, expansion, and improvement of comprehensive community service institutions in order to achieve the goal of making available to all residents of the States, within commuting distance, an opportunity to attend a postsecondary educational institution;

(4) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (3);

(5) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (4), for community service institutions of higher education;

(6) recommendations for coordination of duplicating programs in order to eliminate such duplications;

(7) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (3), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect postsecondary education institutions.

(c) (1) There are hereby authorized to be appropriated $16,000,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this title.

(2) Sums appropriated pursuant to paragraph (1) shall be equitably allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this section, except that no such allotment to any State shall be less than $100,000 except that in the case of American Samoa and the Trust Territory of the Pacific Islands such allotment shall not be more than $50,000 each. Such sums shall remain available until expended.

(d) For purposes of this title, the term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

TITLE XVII—MISCELLANEOUS

SEC. 1701. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

REDESIGNATION OF SECTIONS

SEC. 1702. Title XII of the Higher Education Act of 1964 is redesignated as title XVI, and sections 1201, 1202, 1204, and 1205 of such Act are redesignated as sections 1601, 1602, 1604, and 1605, respectively, and cross-references to such title and such sections are redesignated accordingly.

WAIVER OF MATCHING REQUIREMENT IN CERTAIN CASES

SEC. 1703. (a) Part A of the General Education Provisions Act is amended by adding at the end thereof the following:

"Modifications of Matching Requirements

"SEC. 407. Where a provision of law relating to an applicable program limits the amount of Federal assistance which may be made available for carrying out the program to a specified portion of the cost thereof or requires a specified non-Federal contribution with respect to the program, the Commissioner may approve assistance to institutions of higher education (as defined in section 1601(a) of the Higher Education Act of 1965) for such program in excess of the portion so specified, or a lesser non-Federal contribution than that so specified, if he determines, in accordance with the regulations establishing objective criteria, that such action is required in furtherance of the purposes of such applicable program."

(b) Part A of the General Education Provisions Act is further amended by adding at the end thereof the following:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 408. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system." No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee."

APPLICATION OF CERTAIN LAWS TO PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 1704. (a) Section 103(a) of the Higher Education Act of 1965 is amended by striking out "each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands" and inserting in lieu thereof "to American Samoa".

(b) Section 513(c)(2) of such Act is amended (1) by striking out the first sentence and inserting in lieu thereof the following: "Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior.", and (2) by striking out the last sentence thereof.

(c) (1) The first sentence of section 519(a) of such Act is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 519(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(d) Section 602(a)(2) of such Act is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(e) Section 103(d)(1) of the Higher Education Facilities Act of 1963 is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(f) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(g) Section 302(a)(3)(B) of the National Defense Education Act of 1958 is amended by striking out " and the District of Columbia" and by inserting in lieu thereof ", the District of Columbia, Puerto Rico, Guam, and the Virgin Islands".

(h) Section 1008(A) of the National De-

fense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(i)(1) Section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 202(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(j)(1) Section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 302(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(3) Section 307(b) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and inserting in lieu thereof "American Samoa".

(k)(1) Section 502(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(2) Section 522(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(3) Section 531(c)(1) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

SEC. 1705. All data, statistics, or other information required by the Secretary to make determinations with respect to entitlements to any monies under the Elementary and Secondary grants shall be obtained by him from the appropriate State educational agency. The Secretary shall require such State educational agency to provide only such data, statistics, or other information to him as is or are essential to enable him to carry out his duties under this Act.

EFFECTIVE DATE

SEC. 1706. Except as otherwise provided in this Act, each of the provisions of this Act, and each amendment made by this Act, shall become effective July 1, 1972.

TITLE XVIII—EMERGENCY SCHOOL AID

SEC. 1801. This title may be cited as the "Emergency School Aid Act of 1971".

PURPOSE AND POLICY

SEC. 1802. (a) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

(2) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

(b) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

APPROPRIATIONS

SEC. 1803. (a) There are authorized to be appropriated for carrying out this title not in excess of $500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $1,000,000,000 for the succeeding fiscal year.

(b) Funds appropriated under subsection (a) shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

(c) From the sums appropriated under subsection (a) for each fiscal year there shall be reserved to the Secretary an amount equal to not less than 4 per centum of the sums so appropriated for the purpose of carrying out bilingual education programs in accordance with section 1805 (e).

ALLOTMENTS AMONG STATES

SEC. 1804. (a) From the sums appropriated pursuant to section 1803 (a) for carrying out this title for any fiscal year, the Secretary shall allot an amount equal to 90 per centum among the States by alloting to each State $100,000 plus an amount which bears the same ratio to the balance of such 90 per centum of such sums as the aggregate number of children aged five to seventeen, inclusive, in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups (such as Orientals, Alaskan natives, and Hawaiian natives) as determined by the Secretary, bears to the aggregate number of such children in all of the States. The remainder of such sums (other than sums reserved under section 1803(c)) may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 1806 and in accordance with the other provisions of this title) for grants or contracts to carry out the purpose of this title stated in section 1802 (a). The number of such children in each State and in all of the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to him.

(b)(1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 1806, 1807, and 1808, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title—stated in section 1802(a) that their approval is not warranted.

ELIGIBILITY FOR FINANICAL ASSISTANCE

SEC. 18. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with this title to a local educational agency—

(1) which is implementing a plan—

(A) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of racially segregated students or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

(B) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools;

(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of racial isolation in all the racially isolated schools in the school district of such agency;

(3) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan—

(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 18104(a), who are in racially isolated schools in such district, or

(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children;

(4) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing racial isolation in one or more of the school districts to which such plan relates; or

(5) which, upon a determination by the Secretary—

(A) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 18104(a), and

(B) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b),

has established or will establish one or more stable, quality, integrated schools. For the purposes of this paragraph, an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Secretary determines that the number of children who are not in groups described in clause (A) constitutes that proportion of the enrollment which will achieve stability, in no event more than 70 per centum thereof, and (ii) a faculty which is representative of persons who are Negroes, American Indians, or Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary under section 18104

(a) and persons who are not members of such groups in the population of the larger community in which it is located, or, whenever the Secretary determines that the local educational agency concerned is attempting to increase the proportions of racial minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the racial minority group and nonminority group faculty employed by the local educational agency.

(b) The Secretary is authorized to make grants to local educational agencies, which are eligible under subsection (a)(5), for unusually promising pilot programs or projects designed to overcome the adverse effects of racial isolation by improving the academic achievement of children in one or more racial isolated schools, if he determines that the local educational agency had a number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a) enrolled in its schools, for the fiscal year proceeding the fiscal year for which assistance is to be provided, which is at at least 15,000.

(c) In cases in which the Secretary finds that it would effectively carry out the purpose of this title stated in section 1802(a), he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan or actively described in subsection (a).

(d)(1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination by such agency that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from racial minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of racial minority group from nonminority group children;

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of racial minority group children in such activities, which discriminates among children on the basis of race, color, or national origin; except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(3) All determinations and waivers pursuant to this subsection shall be in writing.

(e)(1) The Secretary shall carry out a program to meet the needs of children who are from an environment in which the dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 1803(c) the Secretary is authorized to make grants to and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under this section, designed to meet the special educational needs of children who are from environments in which the dominant language is other than English for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the groups of which such children are members;

(B) local educational agencies eligible for assistance under this section for the purpose of engaging in such activities;

(C) local educational agencies eligible for assistance under this section for the purpose of carrying out activities authorized under section 1806 of this title to implement curricula developed under clause (A) or (B) or curricula otherwise developed which the Secretary determines meets the needs described in clause (A).

In making grants and contracts under this paragraph, the Secretary shall assure that sufficient funds from the amount reserved pursuant to section 1803(c) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Secretary determines meet the needs described in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary education personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policy-making authority with respect to the program or project and (II) have demonstrated to the Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the group, the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under this section. The Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

AUTHORIZED ACTIVITIES

SEC. 1806. Financial assistance under this title shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 1802(a), including—

(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 1805 or a program described in section 1809(2), when such services are deemed necessary to the success of such plan, activity, or program;

(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

(3) comprehensive guidance, counseling, and other personal services for such children;

(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

(5) educational programs using shared facilities for career education and other specialized activities;

(6) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), and other children attending different schools, including extra-curricular activities and cooperative exchanges, or other arrangements between schools within the same or different school districts;

(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities;

(8) community activities, including public education efforts, in support of a plan or activity described in section 1805 or a program described in section 1809(2);

(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan or activity described in section 1805 or a program described in section 1809(2);

(10) planning and evaluation activities; and

(11) other specially designed programs or projects which meet the purpose of this title stated in section 1802(a).

CRITERIA FOR APPROVAL

SEC. 1807. (a) In approving applications submitted under this title (except for those submitted under sections 1805(e) and 1809(2)), the Secretary shall apply only the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State.

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan or activity described in section 1805 in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

(2) the degree to which the plan or activity described in section 1805, and the program or project to the assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 1805(a)(3)(C), the degree to which the plan and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this title);

(3) the extent to which the plan or activity described in section 1805 constitutes a comprehensive districtwide approach to the elimination of racial isolation, to the maximum extent practicable, in the schools of such school district;

(4) the degree to which the program or project to be assisted affords promise of achieving the purpose of this title stated in section 1802(a);

(5) that (except in the case of an application submitted under section 1809(1)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

(6) the degree to which the plan or activity described in section 1805 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(b) The Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

ASSURANCES

SEC. 1808. (a) An application submitted for approval under this title shall contain such information as the Secretary may prescribe and shall contain assurances that—

(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

(2) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this title as the Secretary may require for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(3) the applicant will provide such other information as the Secretary may require to carry out the purpose of this title stated in section 1802(a);

(4) the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made; and

(5) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a racial minority group, except that no assignment pursuant to a court order or a plan approved under title VI of the Civil Rights Act of 1964, or otherwise adopted under section 1805, will be considered as being in violation of this subsection.

(b) An application for assistance under this title submitted by a local educational agency shall, in addition to meeting the requirements of subsection (a), contain satisfactory assurances that—

(1) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 1802(a) or, in the case of an application under section 1805(e), would assist in meeting the needs described in paragraph (1)(A) of that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(2) such agency has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

(3) the current expenditure per pupil (as defined in section 1811(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this title will be made available to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan or activity described in section 1805 or in section 1809(2) was commenced, or (B) the third academic year preceding the academic year for which such assistance will be made available, whichever is later;

(4) the plan with respect to which such agency is seeking assistance (as specified in section 1805(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district by such agency;

(5) for each academic year for which assistance is made available to the applicant under this title, such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner of Education:

(6) such agency will not institute or have in effect any practice, policy, or procedure prohibited by clause (B), (C), or (D) of section 1805(d)(1);

(7) such agency will not engage in a transaction described in clause (A) of section 1805(d)(1); and

(8) such agency will carry out, and comply with, all provisions, terms, and conditions of any plan or activity as described in section 1805 or section 1809(2) upon which a determination of its eligibility for assistance under this title is based.

(c) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons by his disapproval and without affording the agency a reasonable time to modify its application.

(d) The Secretary may, from time to time, set dates by which applications shall be filed.

(e) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be an agency described in section 1805 (a) or (c) or section 1809 and any one or more of such agencies joining in such application may be authorized to administer such program or project.

SPECIAL PROGRAMS

SEC. 1809. From the funds available to him under the second sentence of section 1804(a) the Secretary is authorized to make grants—

(1) to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this title stated in section 1802(a) if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary or secondary schools; and

(2) to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English and who, (A) as a result of limited English-speaking ability, are educationally deprived, (B) have needs similar to the needs of other children participating in programs or projects assisted under this title, and (C) attend a school in which they constitute more than 50 per centum of the enrollment.

PAYMENTS

SEC. 1810. (a) Upon his approval of an application for assistance under this title, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor the amount fixed for such application.

(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1808(b), the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 1802(a) or in the case of an application under section 1805(e) would assist in meeting the needs described in paragraph (1)(A). The services to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 1805(e), from the funds reserved under section 1803(c), or in case of an application under section 1809, from the sums available to the Secretary under the second sentence of section 1804(a).

(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1808(b), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational

agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) Afer making a grant or contract under this title, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

(c) The amount of financial assistance to a local educational agency under this title may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by him, to be the result of the implementation of a plan or activity described in section 1805 (a), (b), or (c), or of the operation of a program under section 1809(2).

DEFINITIONS

SEC. 1811. As used in this title, except when otherwise specified—

(a) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditures made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(b) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(c) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(d) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, townships, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

(e) The term "nonprofit" as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The terms "racially isolated school" and "racial isolation" in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary under section 1804(a), constitute more than 50 per centum of the enrollment of a school.

(g) The terms "elementary and secondary school" and "school" mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(h) The terms "Secretary" means the Secretary of Health, Education, and Welfare.

(i) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(j) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 1809, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

EVALUATION

SEC. 1812. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under the second sentence of section 1804(a) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

JOINT FUNDING

SEC. 1813. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this title, any one Federal agency may be designated to act for all in administering the funds advanced.

NATIONAL ADVISORY COUNCIL

SEC. 1814. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representatives of racial minority groups, appointed by the President, which shall—

(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the implementation of the criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving the purpose stated in section 1802 (a), and (B) with respect to the Secretary's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized and submit through the Secretary to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Commissioner shall submit an estimate under the authority of section 401 (c) and part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

REPORTS

SEC. 1815. The Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with the appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 1802(a). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than two times annually.

GENERAL PROVISIONS

SEC. 1816. (a) The provisions of parts B and C of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act of 1971;" after "the International Education Act of 1966;".

PROHIBITION AGAINST BUSING

SEC. 1817. No funds appropriated pursuant to this title may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

NEIGHBORHOOD SCHOOLS

SEC. 1818. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially non-discriminatory basis to adopt any other method of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools.

The SPEAKER. The question is on the motion offered by the gentlewoman from Oregon.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7248) was laid on the table.

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent that the Clerk, in the engrossment of the amendment to the Senate bill, be authorized and directed to make such changes in section numbers, cross-references, and other technical and conforming corrections as may be required to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

GENERAL LEAVE

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that Mr. ELLENDER and Mr. YOUNG be appointed as additional conferees on the bill (H.R. 11418) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes."

ANNOUNCEMENT OF PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I have taken this time to announce to the Members of the House and also for the purposes of the RECORD that the program will continue today at noon with the consideration of the coffee agreement. At the conclusion of the debate on the coffee agreement, the program for this week will be concluded.

LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOOGS. Mr. Speaker, I take this time in order to clarify what I said a moment ago. Some question has arisen in the minds of some people. It is our intention to conclude the consideration of the coffee agreement bill today and to vote on it today.

CONGRESSMAN DANIEL J. FLOOD NAMED HONORARY DOCTOR OF PHILOSOPHY BY THE UKRAINIAN FREE UNIVERSITY OF MUNICH, GERMANY

(Mr. MORGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MORGAN. Mr. Speaker, on Saturday night, October 23, in New York City, my distinguished colleague and dear friend in the Pennsylvania delegation, Congressman DANIEL J. FLOOD of Wilkes-Barre was given another great honor. He was named an honorary doctor of philosophy by the Ukrainian Free University of Munich, Germany, at the golden jubilee banquet at the Statler-Hilton Hotel, commemorating the 50th anniversary of the founding of the institution in Vienna, in 1921.

It was the sixth honorary degree my illustrious colleague has received, along with scores of citations over the years for his efforts on behalf of oppressed peoples everywhere. Of course Congressman FLOOD is also recognized for his efforts in behalf of social programs, in his capacity as chairman of the Subcommittee on Appropriations for the Departments of Labor; Health, Education, and Welfare.

Congressman FLOOD has continuously supported the cause of Ukrainian culture, and served at the head of a committee a few years back which led to the erecting of the Shevchenko Monument here in the Nation's Capital. He has been since its inception a strong supporter of the Captive Nations Week resolution.

Mr. Speaker, it is my pleasure to submit Mr. FLOOD's remarks in accepting this high honor which he gave Saturday night in New York:

ADDRESS BY CONGRESSMAN DANIEL J. FLOOD (D–PA.) IN ACCEPTING AN HONORARY DOCTORATE OF PHILOSOPHY DEGREE FROM THE UKRAINE FREE UNIVERSITY OF MUNICH, AT THE STATLER-HILTON HOTEL, NEW YORK CITY, OCTOBER 23, 1971

My Dear Friends for Freedom—for the freedom of Ukraine, for the preserved freedom of our great Nation—it is with the utmost humility and deepest gratitude that I wholeheartedly accept this priceless honor you have so generously conferred upon me. It is an honor that I shall treasure richly and to the end of my day. Believe me, in granting me this privilege to become associated as a favored son of the Free Ukrainian University, you have rekindled more than ever before my hopes and desires to continue to work with you in the advancement and realization of the cultural and political aspirations of the Ukrainian nation—the largest non-Russian nation both in the Soviet Union and in Eastern Europe—and also the progessive contributions of Americans of Ukrainian ancestry to our Nation.

Truly, I take immense pride in having the opportunities of over two decades to participate in the furtherance of these solid and precious goals. Over twenty years ago it was vitally important for me and my colleagues in Congress to establish the Displaced Persons Commission so that the hundreds of thousands of refugees from Communist tyranny, including many of you, may be given a new homeland in this country and freedoms which you were denied in your native land.

Soon therefore it was necessary to investigate officially the ways and means by which the countries of Eastern Europe, including Ukraine, came under Communist domination. My support of the famous Kerstern Committee was complete and undivided, and you well know the historic results of that august body. Cultural development in Ukraine and elsewhere has been severely repressed, but we managed to establish in the capital of this greatest nation on earth the everlasting symbol of Ukrainian culture and humanities in the Taras Shevchenko monument. The tremendous achievement is a source of pride and gratification to me and my colleagues in Congress.

Ladies and Gentlemen, as you see, we have been bound together in these and many other mutual efforts and achievements. But this honor that you so graciously endow me with tightens our bonds greater than ever for the truly challenging period ahead. For which, in all gratitude, I can only say most sincerely Dyakayu vom dushe (Thank you very much).

PHASE II: CANADA, THE CARIBBEAN, AND LATIN AMERICA; TIME TO AGAIN BE A GOOD NEIGHBOR

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matters.)

Mr. FASCELL. Mr. Speaker, in 2 weeks we will enter phase II of President Nixon's comprehensive program to restore this Nation to economic health. While restraints on wages and prices are still required, it is already clear that some tempering of the temporary stringent controls will be vitally necessary if we are not to seriously distort our economy while attempting to stimulate growth and halt inflation.

Equally important, however, will be greater flexibility in our new international economic policies if we are to prevent permanent damage to our long-term foreign policy interests and to avoid major distortions in patterns of world trade and investment.

Specifically, I urge the President to take advantage of the opportunity provided by the transition of phase II to end the unjust treatment of our neighbors in the hemisphere by immediately exempting all Western Hemisphere products from the 10-percent import surcharge. With respect to Latin America and the Caribbean, I am convinced that this can be done consistently with both the provisions of the General Agreement on Tariffs and Trade and the Trade Expansion Act. Moreover, I believe that we should seek a special waiver from GATT to exempt Canada from the import surcharge. It simply does not make sense to erect trade barriers between the United States and our closest friend and ally with whom we have so long had a policy of open frontiers and close military and economic cooperation.

I applauded and supported the President's international initiatives to halt the deterioration of the U.S. balance-of-payments position and to end the discriminatory practices of many nations against U.S. exports when they were first announced. I continue to support them generally today, but as chairman of the Inter-American Affairs Subcommittee of the Committee on Foreign Affairs, I am convinced that these policies should not and must not be carried out at the expense of our hemisphere neighbors.

The time has come to admit that the United States has made a mistake; that it is wrong to punish our hemisphere friends for the policies of other nations. Repeatedly, spokesmen for the administration have currently pointed out that it is principally the policies of Europe and Japan which have caused our problems. Our own policy should be consistent with that assessment.

Mr. Speaker, the United States has encouraged industrialization throughout the Americas. We have promoted economic growth which in turn provides markets for U.S. goods. We have urged export expansion and pledged to open our markets even more to Latin and Caribbean products by enactment of a system of general tariff preferences for the developing nations. Yet, just at the time when many hemisphere nations are beginning to expand their exports of manufactured products so that they can earn money with which to repay our development loans, we have levied an extra 10-percent duty—and this after agreeing to reduce our duties. It is not hard to understand why this move, originally coupled with a 10-percent reduction in aid, since rescinded, has provoked bitter resentment throughout the hemisphere.

The effect of the surcharge on hemisphere nations varies from country to country but in each country the effects, both real and psychological, are profound. For years we have deliberately encouraged our hemisphere neighbors to believe that they have a special relationship with the United States, and this should be the case for we share more than just geography. Our democratic tra-

ditions and our history bind us together. Moreover, in every case our economies are inextricably bound. More than one-half of all exports of hemisphere countries go to the United States. Two-thirds of Canada's exports go to the United States and more than one-third of all Caribbean and Latin American exports, $14.6 billion in 1970, were to the United States.

It is difficult to sense from statistics the human impact of the surcharge but a brief glance at statistics does give a meaningful picture of the scale of the problems the surcharge creates. Of the $11 billion in goods Canada exports to the United States, 23.1 percent will be affected by the surcharge. This in turn will affect 3⅓ percent of Canada's GNP and cause thousands to be unemployed. Latin America and the Caribbean exported $5.2 billion to the United States in 1970. Almost $1 billion worth of this total will be affected by the surcharge. Included in the exports subject to the surcharge is 33 percent of all Mexico's exports, and $100 million each of both Argentina's and Brazil's exports. All this in retaliation for what? In 1970 we exported $269 million more to Argentina than we imported; $172 million more to Brazil than we imported; and $482 million more to Mexico than we imported. Overall, according to the U.S. Department of Commerce, we sold $917 million in goods to Latin America and the Caribbean than we bought from them in 1970. The facts are clear: Trade with almost all of our hemisphere neighbors is helping, not hurting the U.S. balance of payments.

Mr. Speaker, when this administration came into office, the President repeatedly stressed that its intent should be judged not by its pronouncements but by its actions. With respect to the Western Hemisphere, the administration has been long on promises and short on performance. Two years have gone by while we have waited for action on generalized preferences—now we have preferences in reverse. Phase II presents us with a splendid opportunity to step boldly forward with our hand extended in friendship toward our hemisphere neighbors and all the developing nations. I submit that the time has come to end our halting policy toward the hemisphere by abandoning an ill conceived import surcharge which punishes the innocent along with the guilty. The time has come to again be a good neighbor.

I include the following material:

TRADE AFFECTED BY U.S. SUPPLEMENTAL IMPORT CHARGE

[1970 data, dollars in millions and percent]

	GNP [1]	Total exports	Exports to United States	Duty-free [2]	Dutiable [3] quota items	Noncon-cession [4] items	Surcharge exempt	Subject to surcharge	Percent exports to United States affected	Percent total exports affected	Percent GNP affected [1]
Total	([5])	[1] 314,150	39,767.7	14,664.5	4,351.9	588.5	19,644.0	20,123.7	50.6	[1] 6.4	([5])
Developed countries	1,097,620	[1] 225,900	29,122.9	9,925.8	1,667.4	316.9	11,910.1	17,217.1	59.1	[1] 7.6	1.6
Developing countries	([5])	[1] 53,400	10,404.1	4,684.2	2,682.6	194.2	7,561.0	2,854.8	27.4	[1] 5.3	([5])
Communist [6]	([5])	[1] 34,850	216.2	53.8	[7] 1.9	[7] 47.4	172.2	44.0	20.4	[1] .1	([5])
Canada	78,140	16,861	11,024.8	7,675.0	758.7	39.1	8,472.8	2,552.0	23.1	15.1	3.3
OAS countries	129,898	14,575	5,169.6	2,587.5	1,598.1	122.5	4,308.1	861.5	16.7	5.9	.7
Mexico	31,580	1,402	1,197.6	440.7	174.8	119.0	734.5	463.1	38.7	33.0	1.5
Guatemala	1,728	298	87.1	61.1	21.4	([8])	82.5	4.6	5.3	1.5	.3
El Salvador	988	229	48.3	41.0	6.3	([8])	47.3	1.0	2.1	.4	.1
Honduras	675	172	95.9	74.9	7.7	([8])	82.6	13.3	13.9	7.7	2.0
Nicaragua	750	175	61.4	20.2	31.5	([8])	51.7	9.7	15.8	5.5	1.3
Costa Rica	886	229	115.2	84.3	28.3	.1	112.7	2.5	2.2	1.1	.3
Panama	992	114	75.3	57.9	15.8	([8])	73.7	1.6	2.1	1.4	.2
Colombia	6,610	750	269.2	203.4	48.5	.5	252.4	16.8	6.2	2.2	.3
Ecuador	1,792	218	108.3	91.6	11.0	([8])	102.6	5.7	5.3	2.6	.3
Peru	5,380	1,044	336.2	230.8	57.6	([8])	288.4	47.8	14.2	4.6	.9
Bolivia	938	220	24.2	21.2	.6	1.0	22.8	1.4	5.8	.6	.2
Chile	6,340	1,200	154.4	145.5	([8])	.1	145.6	8.8	5.7	.7	.1
Argentina	21,000	1,775	171.8	36.8	12.0	.4	49.2	122.6	71.4	6.9	.6
Paraguay	582	64	11.3	4.3	([8])	([8])	4.3	7.0	61.9	10.9	1.2
Uruguay	2,036	233	19.1	2.6	([8])	([8])	2.6	16.5	86.4	7.1	.8
Brazil	33,660	2,739	669.6	466.4	103.3	.5	570.2	99.4	14.8	3.6	.3
Venezuela	10,120	2,638	1,081.0	268.5	809.8	([8])	1,078.3	2.7	.2	.1	([9])
Trinidad and Tobago	815	482	232.0	82.5	146.4	([8])	228.9	3.1	1.3	.6	.4
Barbados	140	40	8.7	4.7	.1	([8])	4.8	3.9	44.8	9.8	2.8
Jamaica	1,110	299	185.7	164.8	13.4	.1	178.3	7.4	4.0	2.5	.7
Dominican Republic	1,351	214	185.1	62.9	105.8	.5	169.2	15.9	8.6	7.4	1.2
Haiti	425	38	31.9	20.5	4.1	([8])	24.6	7.3	22.9	19.2	1.7
Other Western Hemisphere	([5])	[1] 1,375	617.6	225.5	353.1	.8	579.4	38.2	6.2	[1] 2.8	([5])
Greenland	([5])	([5])	1.8	.3	0	([8])	.3	1.5	83.3	([5])	([5])
Miq. and St. Pierre	([5])	([5])	.9	.2	0	.4	.6	.3	33.3	([5])	([5])
British Honduras	52	[1] 20	5.3	1.8	1.9	.3	4.0	1.3	24.5	[1] 6.5	2.5
Canal Zone	([5])	([5])	.8	.7	([8])	([8])	.7	.1	12.5	([5])	([5])
Bermuda	([5])	([5])	1.2	.8	([8])	([8])	.8	.4	33.3	([5])	([5])
Bahamas	([5])	89	80.8	26.1	28.6	([8])	54.7	26.1	32.3	29.3	([5])
Leeward and Windward Islands	([5])	([5])	5.6	2.4	1.7	([8])	4.1	1.5	26.8	([5])	([5])
Netherland Antilles	([5])	([5])	412.9	110.0	297.7	([8])	407.7	5.2	1.3	([5])	([5])
French West Indies	([5])	68	9.1	.2	8.7	([8])	8.9	.2	2.2	.3	([5])
Guyana	247	134	43.1	27.9	14.3	([8])	42.2	.9	2.1	.7	.4
Surinam	252	[1] 129	56.1	55.3	0	0	55.3	.	16.6	[1] .7	.4

[1] Estimated.
[2] Includes items which became duty-free Jan. 1, 1971, as part of the 4th stage Kennedy Round reductions, suspended duty items, and U.S. components entering duty-free under TSUS items 806.30 and 807.00.
[3] Includes: (a) Crude petroleum and most refined products. (b) Beet and cane sugar. (c) Fresh, chilled, or frozen beef, veal, mutton and goat-meat. (d) Cotton textile items covered by the long-term cotton textile agreement. (e) Dairy products under quantitative restrictions pursuant to sec. 22 of the Agricultural Adjustment Act, as amended. (f) Wheat and wheat flour. (g) Peanuts and peanut products except peanut butter. (h) Certain cotton and cotton waste.
[4] Col. 1 rate is identical to col. 2 rate.
[5] Not available.
[6] Yugoslavia is not considered a Communist country for purposes of this table. Of the Communist countries, only Poland receives MFN treatment from the United States; the surcharge therefore affects only some imports from Poland and none from other Communist countries.
[7] Excludes products already dutiable at col. 2 rates by reason of importation from countries not receiving MFN treatment from the United States.
[8] Less than $50,000.
[9] Less than 0.05 percent.

Note: Data sources: (1) GNP and total exports: International Financial Statistics (IMF) or State/AID estimates; (2) U.S. trade data: Department of Commerce publications and Tariff Commission computer printouts.

Source: Prepared by Department of State, Bureau of Economic Affairs Oct. 1, 1971.

[From the Miami Herald, Sept. 11, 1971]

AN ERRATIC POLICY FOR LATINS?

"It is difficult to comprehend the enormous problems confronting Latin America: the world's highest birth rate, unemployment equivalent to 27 per cent of the world force, massive illiteracy and ill health, a migration to the cities which is shattering centuries-old social and economic patterns virtually overnight . . . The facts—the sheer misery of millions—is staggering," U.S. Rep. Dante Fascell told the Congress last August.

"It is against this background," he added, "that we must measure our relations with Latin American governments."

Against that background, plus the fact that the United States enjoyed a favorable balance in Latin trade of $510 million in 1970, a hemispheric meeting begins Monday in Panama. On one side will be the United States; on the other, Latin America.

As has been demonstrated repeatedly, particularly since 1968, nothing unites the individualistic Latins so quickly and solidly as U.S. policies they don't like.

Officially, it will be a meeting of the Inter-American Social and Economic Council of the Organization of the American States. Realistically, it looms as a protest meeting against the new U.S. 10 per cent import surcharge.

The Latins want to know among other things why the U.S. includes them in puni-

tive measures aimed at redressing imbalances caused by trade with other areas of the world.

They especially want to know why this should be so when the Nixon administration promised to follow a policy of exactly the opposite; providing a special trade break to Latin America.

And, it seems to us, they have a point.

[From the Miami Herald, Sept. 19, 1971]

HEAVYHANDED LATIN POLICY

"The United States cannot reverse the revolutionary processes which are taking place south of our borders and should try, instead, with all the patience, understanding and imagination at our disposal to help fashion new hemispheric relationships which will benefit all the peoples of the Western Hemisphere."

U.S. Rep. Dante Fascell, chairman of the House subcommittee on Inter-american Affairs, stressed this appropriate theme in his speech here Saturday night.

As probably the leading congressional spokesman on Latin America, Mr. Fascell emphasized again "the ordeal of change" taking place and cautioned that U.S. long-range interests require sympathy and understanding.

In this regard, he described as "heavy-handed" the application of the new U.S. import surcharge to Latin America, with which this country has a large annual trade surplus.

Mr. Fascell sounds the proper note, we think, when he calls for American nations to discard preconceptions and mutually explore new ground.

[From the Miami Review, Sept. 29, 1971]

PRESIDENT'S IMPORT SURTAX CAN HOBBLE LATIN PROGRESS

(By Lee Ruwitch)

When Congressman Dante Fascell insisted the other day that Mr. Nixon's across the board 10 per cent surtax on imports to salvage our pitiful balance of payments is "the right idea but the wrong method," he hit the nail right on the head.

For, what the President should have done was to allow for exceptions. Particularly, as Fascell stressed, when it comes to Latin America.

Many a Latin American country cannot survive without exports to the United States, and all our efforts—going back to the days of Franklin D. Roosevelt and ending with the days of John F. Kennedy—to stabilize the Latin American economy will go to the wind.

If that happens—and it surely will—political stability and the creation of a middle class in the lands of our neighbors will once more become the dream whose fulfillment against unemployment, poverty and extremism, will be shattered by renewed revolutions.

And the revolutions will, once more, give birth to the types of totalitarianisms from which we tried to rescue nations like Argentina, Brazil, Peru and others and against which we protest when we witness their rise in countries like Chile and Bolivia.

FDR never saw the fruits of his "Good Neighbor" policy because it came to life only briefly in the years of World War II as a matter of military alliance rather than "Good Neighbors."

The tragedy of assassination never permitted JFK to see any progress by the Alliance for Progress because his successors, as usual, forgot all about Latin America by way of their involvement in Asia, the Middle East and Europe.

So the fate of history made, once more, third class friends out of our Latin neighbors.

Now Mr. Nixon has rocked even that leaky boat by including the Latin nations in the 10 per cent import surtax which will make the survival of newly born and still developing commerce and industry dangerously difficult.

Yet anyone who knows Latin America well—and Mr. Fascell certainly does—knows also that it has never been the game of reckless politics which ruined the continent's economy but the lack of economic support which produced reckless politics. The import tax, applied to Latin America, may very well revive that trend.

[From the Christian Science Monitor, Oct. 14, 1971]

SPECIAL POSITION ERODING?—U.S. IMPORT CHARGE IRKS LATIN AMERICA

(By James Nelson Goodsell)

Latin American discontent with the United States is mounting.

Latest evidence of this trend springs from unhappiness over President Nixon's decision to place a 10 percent surcharge on all United States imports—a tax from which Latin America was not exempted.

What particularly rankles the Latins is what they regard as a growing tendency on the part of the Nixon administration to water down the special position Latin America had during previous administrations. As Latin America sees it, President Nixon is simply not interested in Latin America.

Even the administration's decision to exempt Latin America from a 10 percent cut in economic aid has failed to alter this feeling.

Most Latin American comment on the current United States economic situation and President Nixon's methods for meeting the problems facing Washington centers on the 10 percent import surcharge.

"This works against Latin America since we already run a trade deficit with the United States," a leading hemisphere diplomat in Washington commented last week. "Now we get slapped with a 10 percent tax that discriminates against us even more."

Numerous other Latin American diplomats in Washington, as well as government officials, echo these sentiments.

COMPLAINT SPELLED OUT

Galo Plaza Lasso, the Secretary-General of the Organization of American States, spelled out the Latin complaint pointedly when, in San Juan, Puerto Rico, he declared: "We must remember that it is not Latin American exports that are causing problems for the United States. On the contrary, the United States has a trade surplus with Latin America, which last year amounted to $790 million."

United States delegates to the recent Inter-American Economic and Social Council, meeting in Panama City, were subjected to sharp criticism from their Latin-American colleagues who arrived in the Panamanian capital hoping to hear word from Washington that Latin America was being exempted from the import surcharge.

Nathaniel Samuels, the deputy undersecretary for economic affairs, told the Latin delegates there would be no United States retreat on the surcharge.

When the conference wound up, the final document called for the immediate exemption of Latin America from the surcharge. The United States refused to sign the document, which each of the Latin American nations did sign.

The Panama meeting was one more standoff between Latin America and the United States, and to many hemisphere observers suggests the direction in which relations between Washington and Latin America are headed.

The Chilean delegate to the conference probably reflected the views of most of his Latin-American colleagues when he told the meeting that Latin America was being made to suffer for United States mistakes. "It is both unfair and unjust," he said, "for Washington to punish Latin American nations in an effort to resolve a problem not of their own making."

It is this point that increasingly galls Latin Americans. And to compound the problem, Latin Americans say they were led to believe their part of the world would receive preferential treatment from the United States.

"If this is preferential treatment," a Colombian at the Panama meetings said, "I would like to see what unpreferential treatment is!"

Moreover, in recent years, Washington has been encouraging Latin lands to diversify their exports and promising to take increasing amounts of Latin exports to help in this endeavor. Brazilians now reckon that the surcharge will affect close to $175 million worth of their exports to the United States and that the bulk will be in new areas into which they are just beginning to diversify.

MAKING THINGS CLEAR FOR THE LATINS

In case anyone still wonders why some Latin American nations are beginning to see Marxism and trade ties with the Soviet Union in their future:

Shortly after his inauguration, President Nixon indicated that his administration would continue to support development efforts in Latin America, called in the ambassadors of our southern neighbors and asked them to submit proposals. The product of these conferences was the consensus of Vina del Mar," a far-ranging plan for assistance and cooperation.

It has been virtually ignored.

Mr. Nixon commissioned New York Governor Nelson Rockefeller to undertake a personal mission to the capitals of Latin America and determine precisely what was needed. Governor Rockefeller submited a detailed analysis of the area's needs.

It was cast aside.

Last April, Secretary of State William P. Rogers told the Latins in Costa Rica that the U.S. Government would take "immediate, positive" steps toward increasing their exports to the United States. He also told them that the administration intended to introduce legislation to grant developing countries "generalized tariff preferences on a wide range of products, including the 500 items requested by Latin America."

Last week, at a meeting of the Inter-American Economic and Social Council in Panama City, the Latin Americans finally were clued in on Mr. Nixon's real hemispheric policy: No increase in financial aid, no expansion of exports to the United States, no exemption from Mr. Nixon's 10 per cent import surcharge on non-quota goods.

The Latin Americans are saying bitter things. For some reason or other, they think they've been misled.

[From the Washington Post, Sept. 15, 1971]

WHO PAYS THE TARIFF?

In the current pushing and shoving among the world's great trading nations, a lot of small countries are getting hurt. Latin America illustrates the point. The United States did not really intend to harm the Latin economies last month when it imposed its 10 percent surtax on imports. The truth is that the White House and the Treasury were not thinking about Latin America at all. But intentional or not, the damage is real and the consequences are going to be serious.

President Nixon worked out his economic program with the advice of a special committee of able and experienced citizens, headed by Albert Williams, whose report has now been published. But in the matter of tariffs the President overrode this committee, which urged him to move toward removal of all barriers to international trade. The Williams committee is right on this issue, and the President is wrong. The evidence is already visible to the south.

The Latin Americans protest, with good logic, that it is unjust to make them pay a surtax designed to remedy a trade crisis in which they played no part. Latin America has traditionally bought more from the United States than it sells here. The Latins are not

the people to see about revaluing the yen and the Deutschemark. But the United States meets all objections with a shrug and the observation that it can't start making exceptions now.

Mr. Nixon attempted this week to placate the Latins with the decision that, for them alone, he would cancel the 10 percent reduction in foreign aid, it had originally been part of the program announced a month ago, with the surtax. But the countries getting the most aid are not those hardest hit by the surtax.

The extreme examples are Mexico and Brazil. Mexico does more business with the United States than any other country in Latin America and will be more severely damaged by the surtax than any other. But Mexico takes no direct aid from the United States. On the other hand, the United States gives more aid to Brazil than to any other Latin country. Brazil does half as much business with the United States as Mexico does. Since coffee is exempt, the surtax applies only to about 15 percent of Brazil's exports to this country. But it applies to fully 50 percent of Mexico's exports here.

Less than two years ago Mr. Nixon delivered a glowing speech on this country's responsibilities to Latin America. "They need," he said then, "to be assured of access to the expanding markets of the industrialized world." He promised them advance consultation on trade matters, and he also promised to pursue, worldwide, "a liberal system of generalized tariff preferences." They got no consultation on the surtax, obviously, and now they see the United States taking the lead in raising tariffs. Unfortunately the price of these moves comes high, and much of it is ultimately paid by small nations that cannot afford their large neighbors' mistakes.

[From the Vision Letter, Oct. 18, 1971]

THE DANGEROUS POLICY VACUUM IN LATIN AMERICA

President Nixon's new economic policy—no matter how popular in this country—is nothing less than a unilateral moratorium on our commitments to Latin America. Hanging in the balance is more than a third of a century of effort to create a "special relationship" with our Hispanic neighbors. Incredibly, this monumental effort is now being discarded because neither the president nor Secretary John Connally considers it any more than a peripheral concern.

We are certain that readers of *The Vision Letter* agree with us that this is a terrible mistake, threatening not just Latin America but our own national interests, and we feel that everyone in this country with any knowledge of or interest in Hemisphere affairs should join us in petitioning the government for an immediate review of what is tantamount to a policy of malignant neglect.

To that end, we ask for an immediate removal of the surcharge on imports of all goods coming from Latin America, tax that is unfair, unnecessary and counterproductive. And we ask that the White House and the indicated committees of the Congress move speedily to formulate a realistic and progressive policy toward the Hemisphere, a policy that at least attempts to deal with the legitimate aspirations of our remaining Latin American allies, and which is clearly enough stated to be pursued not only by this but succeeding administrations.

In the first place, the American people must be told the reason why we must have a "special relationship" with Latin America, why presidents Roosevelt, Truman, Eisenhower, Kennedy and Johnson were eager to foster such a relationship, even at the cost of huge sums of money, military intervention and the threat of global war. We have faced and we still face a choice of whether we want on the soft underbelly of the American hemisphere a community of friendly nations, political and economic partners, or whether we are to risk a polarization into hostile camps, with 20 sullen nations to the south of us feeding on their own misery and seeking their alliances and ideologies from outside the New World.

President Nixon, before the panic of the dollar crisis, had seemed aware of what was involved. In his foreign policy report to the Congress last February, he said this: "The United States has a great interest in furthering economic and social development in Latin America. If frustration continues to grow, radical forces will depict us as an obstacle to national development. We could become increasingly alienated from our Hemisphere neighbors." Yet the president himself has shown almost no real interest or concern, and by the imposition of the surcharge he has now erected the very obstacles of which he said "radicals" would accuse us.

Partly because of inadequate press coverage, the U.S. public and most members of Congress are not aware of the extreme state of Latin American anger and frustration, not among radicals but responsible government leaders and others who had committed themselves to an assumed alliance with the United States as the foundation of foreign affairs. Nor did that frustration begin with the president's August 15 address. From the start, this Administration has barraged Latin America with promises of future help, beginning with the Rockefeller mission. New terms of aid, new forms of technology transfer, preferential tariffs, greater consultation on regional matters—virtually none of them has materialized. There has almost been a pattern to it all: of promise, then delay, then a shrug of distinterest. The surcharge came as a last straw. Before August, the Latin Americans felt a sense of grievance; afterward, it was one of betrayal.

It has always, and wisely, been the policy of the United States to discuss inter-American affairs at a symbolically round table. A meeting of equals, despite obvious discrepancies of wealth and power, enabled us to avoid a confrontation of one nation against 20. But U.S. neglect is forcing the Latin Americans to look inward, and they are increasingly placing emphasis on purely regional organizations in which Washington has neither voice nor influence. In such organisms, common cause against the U.S. is the binding force.

The United States still has many friends in the Hemisphere and there is little doubt that most countries would like to look to us for support and leadership. Latin American governments know the value of a strong U.S. economy and, at the beginning, they were surprisingly sympathetic to our difficulties. What they cannot understand—and find intolerable—is Washington's new and almost insulting indifference.

There is no responsible official in the Administration who does not admit that the Nixon "low profile" policy has died a failure. But in its inception it at least seemed to have an underpinning of reason and purpose. For the policy vacuum that exists today there is no reason and no excuse. We must make a new start, and those in and out of government who know the stakes involved must start by raising their voices.

CUTLERY IMPORTS CUT DEEP INTO EMPLOYMENT IN THE UNITED STATES

(Mr. DENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DENT. Mr. Speaker, I have just received some information that I would like to pass on to the membership.

GSA evidently has just procured some $2.048 million worth of cutlery. Four American companies who produce cutlery received altogether approximately $500,000 of the $2.048 million. I have not been given the individual figures for each company's award; however, if averaged out, each company would have received $125,000. The fifth company received the balance of the $2.048, or approximately $1.048 million. This company is based in California, but to fulfill orders it imports its cutlery from Taiwan and Korea.

Apparently, Congress does not understand the significance of taking money out of American pockets and putting it into foreign pockets. This increases employment in foreign countries and increases unemployment in the United States. It also forces us to pass bills for aid to education, appropriations for emergency work programs, funds for welfare programs and many other kinds of workmaking payrolls. The money for these programs must come from American workers' pockets.

If the Government of the United States does not patronize its own producing facilities and try to keep some semblance of steady employment, how can we ask private enterprise and private citizens to refrain from buying foreign products?

The burning question America soon will have to answer is whether or not this Nation can survive with their present international trade policies. The answer, of course, is not simple but an answer must come forth. It cannot come from the administration or the President, it must come from the Congress. Only the Congress represents the grassroots of America, in 435 separate and distinct districts.

I am convinced, after a great number of years of following the trade picture closely, that the people are becoming aware of the doubletalk by our administrative and political leaders, which is bearing sour fruit represented by unemployment, disillusionment, disaster, distrust, and despair.

My old friend Oscar Strackbein, makes some very good points and I would like to quote from his presentation a few points worth repeating:

The need for a new trade policy has been borne in upon us in recent months by successive monthly trade deficits we have suffered since last spring.

The harsh reality of our weak competitive position in the world, including our own market, was recognized in August when the president proclaimed a supplemental duty of 10% on roughly half of our total imports, and cut the dollar loose from gold internationally.

In our trade, neither the action taken, nor anything so far contemplated by the administration in the form of trade legislation, has thus far reflected recognition of a far more basic affliction that plagues our economy. This is the changed competitive position of American industry in relation to imports, and the far-reaching implications of this change. To understand this change will require a review of our economic history of the past century.

Mass production had its origin in this country. Its economic potential depended on two important conditions: (1) fair competition as an antidote to monopoly and as assurance of passing reduced costs attributable to technology to the consumers, and (2) increasing mass purchasing power.

Our inventiveness and energy assured technological progress if incentive beckoned. The

efficacy of fair competition was clearly perceived and resulted in the Clayton and Federal Trade Commission Acts and yet later in the Robinson-Patman Act.

The automobile industry, especially as represented by Henry Ford, provides the classical example in the development in this country of the uniquely productive system that brought us to world industrial leadership. Ford's insight led him to tie the fortunes of mass-production to the mass-market or consumer purchasing power. He introduced the $5-a-day wage as an earnest fee of his faith.

After the unbelievable success of the automobile, a vast array of other products followed suit. Household appliances of all kinds, washers, driers, refrigerators, the telephone, radio, television; luxury wearing apparel, sports and recreational items, proliferated over the land to the point of saturation. The great moving power in this phenomenal process was the rich mass market for goods of all varieties. Our enterprising manufacturers had only to behold what the mass market had meant to one product after another and then go and do likewise.

A third element for the success of the vision was selection of products that were likely to enjoy an elastic demand, i.e., products so far acceptable to potential consumers that these would buy more and more of them as the price came down. Essential goods do not answer this description. The demand for them is inelastic. Food is an example. The number of stomachs is limited by the population. Nonessential goods that cater to human needs and desires (especially to ease, comfort, convenience, beauty and social prestige) once discovered or invented, are prime candidates for mass consumption if the price is sufficiently reduced.

Employee compensation, as recognized by Henry Ford, provides the great bulk of purchasing power if it keeps pace with rising productivity. Thus instead of looking upon wages as a necessary evil, to be kept as low as possible, as the early British economists saw it (Ricardo, Mill and others) American economists began to see them as the greatest of market constituents. Our laws began to reflect this recognition—so much so, in fact, that, with the addition of social welfare and other burdens (such as national defense) industrial costs of production became highly inflexible in this country except on the upward scope. Almost no competitive maneuverability remained. Great pressure developed for automation and worker displacement.

Without being explicitly conscious of it our enterprising product developers and merchandisers generated millions upon millions of jobs in this country by finding likely products and awakening the latent demand for them, reducing costs by mass production and then reaping the monetary reward.

Thus did our unique system come to lead the world. After World War II the other leading industrial nations, having seen the magic of our technology and business methods, embraced the system and adopted it with generous help from us.

Before long we were faced with an unpalatable fact: The other countries embraced our mass production but were reluctant to put into effect Ford's vision, namely rising wages as an absorbent of the volume of goods produced. While foreign wages did rise, they did not close the gap between them and us. Thus with lower wages and soaring productivity, foreign producers came to enjoy a widening gap between their unit costs and ours. Because their home purchasing power was inadequate they looked abroad for a market. We offered the most attractive of all.

The response of our industries was natural. They began heavy direct foreign investment—up to some $75 billion by now. Thus they enjoy the low foreign wage levels and rapidly rising productivity. Beyond that, many industries licensed use of their patents by foreign producers.

No longer does a mass market beckon—not because the potential is not there but because the new industry can no longer call its own. Outsiders can beat it in any race to the mass consumer market.

What then of the expansion and the new jobs that previously could be anticipated with confidence? How readily will our capital venture into so uncertain a future?

The accustomed climate of 1910–1955 is gone. It will not return of its own account.

Our mass market is diverted to serve as an outlet, not for innovaters and entrepreneurs at home, but the foreign based.

Our economy is being outflanked, upset and consumed by the very forces to which it gave birth and by ironic generosity handed over to other countries. We are driven to ever greater dependence on service activities rather than production even though we still have the most productive machine in the world.

Is there an alternative? If we can restore the former climate we can hope to reopen the doors to expanding employment. The restoration can be assured if we set a ceiling on the share of our market imports may supply and thus prevent their heading us off at the pass that leads to the mass market. This share might differ from product to product and provide reasonable flexibility.

In such a restored climate our industry could resume the course of cost and price reductions with both new and old products that enjoy an elastic demand, and thus restore to our system its employment-generating motivation.

Failure to understand the dilemma posed by the silent reversal of the international competitive tide which in time will leave our economy beached, will bedevil and even embitter our international relations, while an understanding of it will open the way to fruitful adjustment.

Following this presentation by Mr. Strackbein, the Wall Street Journal attacked his position by what they call "Our Over-the-Hill Economy." First, I'd like to answer some of the criticism by the Wall Street Journal, and I quote from the Wall Street Journal at this time:

In adjoining columns O. R. Strackbein paints a dreary picture of the U.S. economy, a view that may seem to be confirmed by recent events. Business has been sputtering along well below capacity, unemployment has been discouragingly high, and the U.S. has been having growing troubles with foreign competition.

Mr. Strackbein, an ardent spokesman for the new protectionism, feels that this country has simply encouraged and permitted too much of that foreign competition. In the process, he says, American industry has lost a major asset: domination of a huge domestic market.

First of all, Mr. Strackbein is not a spokesman for the new protectionism. He has been, over the years, a lonely voice in this country warning of the devastation wrought by our unsound trade policy. The Journal admits—

It's certainly true that the domestic mass market has had much to do with the rapid growth of American industry. (In passing it should be noted that *free trade with the United States* has made possible both the mass market and the industrial growth.)

What it does not say is that high-wage production makes high price consumer purchases possible, and mass production without consumption creates unemployment.

True, the Journal says other nations have made vast strides in technology; however, they have followed us, with our help, into the field of mass production, but have failed to follow us into the field of mass consumption. If we had no mass consumption we would have mass production sitting and rotting in our wharfs and unsellable.

The Wall Street Journal fails to realize that no nation can withstand the impact of products, produced under conditions not obtainable to our industries because of mandatory laws on the cost of production within their national marketplace.

FAIR LABOR STANDARDS

Too often we are content, as the Wall Street Journal appears to be, to hide behind the so-called depression of the "30's," and to blame that great catastrophe on so-called isolationism. Any modern day economist that is not single minded on the question of trade has to admit that the great depression, World War I and World War II come from different periods and different climates of world trade; and, yet our American apologists somehow find the proper stance to take and blame it all on isolationist trade policies.

Apparently, the idea is that the consumer is a different person than the producer, but he is not. The producer consumes products as does the distributor. We cannot exist without production, consumption and distribution. One is a vital part of the other.

Our trade policies have created a situation where we have today more unemployed, counting non-productive adults and unemployed youths entering the marketplace, percentage-wise than at any other time in our history. Unemployment if measured today, using the same measurements as in the Hoover depression time, would show the Hoover depression was not the catastrophe it was thought to be since social security, welfare, private pensions, trade adjustment assistance, military oriented jobs, in-service military personnel and the greatest percentage of public employees in the history of this country are in the unemployment ranks today, not so counted in the days of Herbert Hoover since everybody that could breathe or walk was counted as unemployed.

The Wall Street Journal seems to ignore the fact that communities that once had 4 to 5 newspapers are now single newspaper communities. Why?

They have another newspaper editorial called "The Virtue of Failure," and they talk about Look magazine and Cowles Communications that have folded and RCA has quit making computers. Their comment is that—

The virtue of failure allows the economy to shift money and manpower into uses where they are more likely to be productive.

What they don't tell you is that if all industries followed this "virtuous path" which industries would be left to absorb this "productive manpower."

The United States pays the highest wages on the face of this earth and yet

some think that it is fair competition to bring in a product produced at a much lesser wage, usually not even as much as our minimum wage. Naturally, because of the great wage differential, we cannot sell our products at a competitive price in the marketplace. I just don't see it that way.

Another interesting point is that the Wall Street Journal, and every other newspaper that uses the mails in the United States, enjoys the greatest per-item subsidy over any other single industry in this country. The Journal should temper its oblique criticism of Congress when they say—

Fortunately no one so far is urging government subsidies for permanent production of Look magazine and RCA computers.

It might interest the free trade advocates to know that the last remaining production of fine watches in this country, and also the last remaining bomb fuse manufacturer, had to be bailed out by the Pentagon in order to have at least one source of bomb fuses in case of need. Isn't this some sort of government subsidy to protect a facility no longer able to fight imports.

The arguments of free traders leave me cold, I have seen world wage differences over many years of study. In spite of all the arguments to the contrary the basic cost of any product has to be the cost of production, which is influenced in the main by wages and salaries.

In hearings on minimum wage laws we are told that industries have justification in going to foreign shores, across the Rio Grande, or across the Detroit River to produce goods because our minimum wage laws are too high in this country. What they seem to fail to understand is that wages, as such, are the only source of income that creates consumption whether it be consumption of goods or services. Production workers in other countries, because of their home purchasing power is inadequate, do not spend their money for goods and services. They have to export because they cannot afford their own products. As more industries close and consumer buying goes down, goods and eventually services here will have to be sold in other countries and since these other countries cannot afford our goods and services what will be the outcome? I think that's plain to see. A worldwide breakdown is definitely a serious threat. The last worldwide depression was charged to protectionism.

If the arguments on runaway industries and military material producing industries are sound, and if they could produce cheaply enough for this country to sell in low wage countries, they would not have to move in the first place. So if anyone thinks the answer is to remove all trade barriers and tariffs he is in for a very rude awakening. It just does not work that way.

This present depression in almost every exporting Nation can be traced to freer trade and a short sighted U.S. foreign policy. Our policy can honestly be blamed for all our unemployment. The work form has not kept up with U.S. consumption. Our jobs have been exported to Nations that export back unemployment.

PROTECTION OF OUR FORM OF GOVERNMENT AND DEVELOPMENT OF ITS RESOURCES — A MUST

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITTEN. Mr. Speaker, our Government was set up by the Founding Fathers as a government of three equal and coordinate branches—the legislative, the executive, and the judiciary. For such a system to work, there must be full comity of understanding of the rights and powers of each branch by the other two branches.

Unfortunately, Mr. Speaker, in recent years we have seen a breakdown in that relationship. First, we have seen the Federal courts largely forfeit that confidence by usurping the powers of the other two branches by changing the Constitution without a constitutional amendment, resulting in a breakdown in law enforcement, with crime running rampant — public buildings in Washington have all their doors closed but one, and it is unsafe to walk the streets—as the courts place the privileges of the criminal ahead of the rights of the general public. We see those actions result in deterioration of our public school system by forced busing, in schools and school districts already integrated.

The Supreme Court has claimed and exercised the right to determine who shall be seated in Congress by assuming the power to determine the makeup and size of districts, thus keeping members of the House of Representatives on a teeter pole of shifting populations, thus keeping the House of Representatives in a weak and uncertain situation so far as serving the people, not knowing what their district will be from month to month.

The Federal courts have thus largely destroyed the balance between the branches of Government established by the Constitution—and the Congress, by acquiescing, has been a party toward its own demise.

I have pending a resolution to establish a special Committee on the Constitution—in an effort to stop this trend.

RURAL DEVELOPMENT AND ENVIRONMENT PROTECTION RETARDED—BY EXECUTIVE ACTION

Mr. Speaker, I speak today to point out the fact that now we see the executive branch getting into the act for the President's Bureau of the Budget, in the President's name, is exercising its might to destroy the exercise of its constitutional power by the people's branch of the Government, the Congress. The President, while talking of rural development, of the restoration and protection of the environment, through his Budget Director, has either cut down or cut out programs approved by and actually directed by the Congress.

In recent weeks, the President's Director of the Budget has withheld $58 million in funds for rural water and waste disposal grants, $75 million for the Farmers Home Administration to make production loans, funds for rural housing for domestic farm labor, for mutual and self-help housing, flood prevention, resource conservation and development, land conservation and development—Appalachia—rural electrification loan fund—$216 million, rural telephone loan fund—$5,900,000.

AGRICULTURAL CONSERVATION PROGRAM—RENAMED "RURAL ENVIRONMENTAL ASSISTANCE PROGRAM"

Here, Mr. Speaker, the President, through his Director of the Budget, last year called for cutting out the program entirely, only to have Congress restore it at a $195,500,000 level, which the Director of the Office of Management and Budget promptly cut back to $140 million for the current year. For the coming year, the President's Director of the Budget has cut down this agricultural conservation program, which had existed for some 35 years, having renamed it the rural environmental assistance program, scaling the $195.5 million announced program directed by the Congress down to $140 million. This actually means a drastic curtailment in the protection provided by the Congress to our people for the basic resource of the Nation's life—our land including reduction in soil technicians as well as in practices.

Mr. Speaker, we recognize the need for protection of the environment. Our committee recommends funds to finance it—but it does not make sense to cut out a program which has done more to protect the environment than all the rest put together. Over 1 million Americans, in practically every county in every State, participate annually, putting up their money and their time to save and improve the soil and other natural resources; and this has been true for 35 years.

The contribution of the agricultural conservation program, as this program was called until December of last year, to the watershed programs and other conservation efforts can be seen from the following table:

Practice, unit (in thousands), and accomplishments, 1936–69

Water storage reservoirs constructed to distribute grazing, control erosion, and conserve irrigation water and wildlife, structures, 2,117.

Terraces constructed to control erosion or conserve water, acres, 31,612.

Stripcropping systems established to control wind or water erosion and conserve water, acres, 113,698.

Permanent sod waterways established to control erosion and safely dispose of excess runoff, acres, 1,087.

Competitive shrubs controlled on range or pasture to permit growth of adequate cover for erosion control, acres, 59,574.

Trees and shrubs planted for forestry purposes, erosion, control or land-use adjustment, acres, 4,941.

Forest tree stands improved for forestry purposes and erosion control, acres, 4,085.

WASTE OF OUR NATURAL RESOURCES—PAST AND PRESENT

Mr. Speaker, about 150 years ago this country had 8,000 billion board feet of timber. Today we have around 1,600 billion board feet left—only 20 percent of the original stand. This terrible waste of timber resources points up the extent to which our highly competitive economy can deplete a national asset in the generation of new wealth. It points up the need for continuing and expanding conservation efforts on a national basis.

Only 175 years ago we had 500 million acres of fertile soil in this Nation. We have already wasted 200 million acres—40 percent—and another 100 million acres—20 percent—is washing away today. It has been estimated than an average of 40 acres of topsoil flows down the Mississippi River each day of the year. Also, estimates are that more than 1 million acres of arable land are lost to residential areas, highways, and other urban developments each year.

Mr. Speaker, when the Office of Management and Budget has in effect summarily and preemptorily impounded more than one-fourth of the announced commitment of funds this Congress authorized for the agricultural conservation program—now called the rural environmental assistance program, that fact should have disturbed all Americans, particularly members of this distinguished body who must demand equality for the Congress with other branches of the Government.

As elected representatives of the people of this Nation, we, in this Congress, decided that $195.5 million in public funds ought to be devoted, in 1972, to conserving and preserving the soil and water which sustain those whom we represent. In fact, members of the Appropriations Committee Subcommittee on Agriculture, Environmental, and Consumer Protection, of which it is my privilege to be chairman, felt so strongly about this matter that we included firm language in our report so that there could be no mistake about our wishes. That report contained these words—relative to ACP, now REAP:

> The Committee strongly condemns the failure to administer the full $195,500,000 called for by the Congress in 1971 . . . For 1972, the Committee has directed that the Secretary announce a program of $195,500,000, the same level as authorized in 1971.

This was approved by and became the action of the Congress. How could the intent of Congress be made more clear than that?

Mr. Speaker, the Director of the Office of Management and Budget saw fit to disregard the action of the Congress, to flaunt its directive and have withheld, impounded, if you will, by cutting back the announced program—$55,500,000 of the $195,500,000 we directed to be allotted to carry out sorely needed conservation practices by our Nation's farmers.

Consider what the $55.5 million could mean. Where the farmer puts up about two-thirds of the cost, including his labor, we are foregoing over $150 million in conservation which this Nation can ill afford to lose. This means we are not having erosion and sediment control measures installed; we are not having water conservation practices installed; and we are not having solid waste disposal practices sponsored to the extent that Congress determined was minimal.

Our soil is not an inexhaustible resource. Not only are we turning about 1 million acres a year to urban uses such as airports, roads, and housing, but millions of tons of soil wash into our rivers, lakes, and reservoirs. As we move with urgency to establish new programs to deal with the problems of urban and industrial pollution, we must not ignore the tried and true programs. ACP, now the rural environmental assistance program, represents one of the best environmental programs available to the American people. Where else can we get such an outpouring of private funds for a one-third Federal investment to achieve the conservation of land for this and future generations?

On the basis of this very sizable sample, they have indicated that this Nation could buy a great deal of conservation and environmental practices for the expenditure of a relatively few dollars. The county committee—farmers elected by participating farmers—reported that they had to reduce farmers' requests for matching Federal assistance, because of insufficient funds.

In order to meet the total amount the farmers were willing to invest, this 24 percent sample converted to a national figure indicated that farmers were willing to match the Federal Government's share up to $437,920,000. The samples by States produced the following figures:

States and farmers would be willing to underwrite the following percentage over the 1971 allocation

	Percent
Alabama	283
Alaska	205
Arizona	276
Arkansas	313
California	175
Colorado	436
Connecticut	170
Florida	587
Georgia	264
Idaho	255
Illinois	176
Indiana	330
Iowa	197
Kansas	159
Kentucky	299
Louisiana	167
Maryland	187
Massachusetts	208
Michigan	189
Minnesota	265
Mississippi	234
Missouri	271
Montana	215
Nebraska	291
New Hampshire	206
New Jersey	195
New Mexico	224
New York	192
North Carolina	239
North Dakota	211
Ohio	209
Oklahoma	320
Oregon	233
Pennsylvania	174
Rhode Island	213
South Carolina	232
South Dakota	182
Tennessee	228
Texas	245
Utah	198
Vermont	171
Virginia	320
Washington	184
West Virginia	285
Wisconsin	226
Wyoming	342
National	225

Under the ACP, millions of trees have been planted. But millions more are needed. As pointed out earlier, terraces and stripcropping systems have been established on millions of acres; millions of additional acres require similar treatment. Millions of acres of legumes have been established and improved, yet this much-needed task is not half completed. Over a million farmers in all 50 states have participated, matching public funds with their own money and then doing the physical work to make and keep a better environment. These million farmers right now are waiting for funds from us to match with their own, because they see these things which still need to be done. And these million conservationists are turned away with less than they are willing to use, because 28 percent of the money—$55.5 million—we said was to be made available to them has been withheld from them by the Executive office of the President. The Nation cannot long tolerate this treatment of congressional intent and directive, for the same thing has happened with regard to highway funds, to public flood control and navigation projects.

I cannot understand the President of the United States letting such situation come about. Though actually I doubt that the full facts have come to his personal attention. I call on him now, however, to correct this error, to cooperate with the Congress in doing something for the protection of the environment in cooperation with the more than 1 million volunteers willing to put up their time and their money as they have for 35 years.

Truly our land—the greatest heritage we can leave our children and our children's children—is endangered by this withholding action.

WE MUST PUT FIRST THINGS FIRST

Certainly we need to balance the budget and do something about inflation. Personally I believe we can do this by cutting out foreign aid, the United Nations, by cutting out the billions of dollars of funds spent each year in the name of "Defense" but for which we get no real defense, and in eliminating many, many expenditures for which we get no real return. If these expenditures are to continue despite my beliefs, it becomes more imperative that we not try to do these things by retarding the development of rural communities, by holding back funds for water systems, electricity, telephones, housing, so essential to relieve our overcrowded cities, or by jeopardizing the production of food, the protection of our people from floods or the development of our natural resources on which all the rest depends.

Mr. Speaker, I earnestly urge the Director of the Budget, and the President, to review these actions—for while the President unquestionably has the might, I respectfully submit, he does not have the right.

We must all remember that if we leave our children a land rich in natural resources, its rivers harnessed and its harbors developed, with schools and highways, adequate power, they could set up their own financial system.

On the other hand, we could leave our children all the money in the world and a worn out and eroded land and they could never make it—for they would have nothing on which to build.

Mr. President, the people need your help.

OPPOSITION TO THE PRAYER AMENDMENT

(Mr. MOSHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOSHER. Mr. Speaker, I am very concerned, because this House presumably will have only 1 hour next Monday to debate an extremely important, perhaps historic issue, whether or not we shall approve House Joint Resolution 191, the so-called "Prayer Amendment."

Therefore, I use this opportunity to put myself on record in advance as being vigorously opposed to that proposed amendment. I will vote against it.

I have broadcast to the news media and to scores of concerned citizens and groups in our 13th Ohio Congressional District a statement of my reasons for opposing the amendment.

For the RECORD and for such interest as it may be to my fellow Members, I submit here the statement I have made to my constituents, as follows:

STATEMENT BY CHARLES A. MOSHER

It is important that I inform the people of Ohio's 13th Congressional District why I will vote *against* the so-called "Prayer Amendment" (H.J. Res. 191) when it is before the U.S. House of Representatives, probably on Monday, November 8, 1971.

Many wonderfully well intended, devout citizens (many of them my good friends) fervently believe the proposed amendment would guarantee "freedom of prayer," or "freedom of religion" in our public schools. But I am convinced quite the opposite would be true. It would kill that freedom.

I oppose the amendment because in actual practice it would require that some government body or official shall compose or approve, in effect shall prescribe whatever group prayers are allowed to be used. The amendment says only "nondenominational" prayers shall be legally allowed. Thus the amendment would establish government regulated religious observance in the public schools.

That is the exact opposite of religious freedom. That is exactly the opposite of what America has always stood for in these matters.

Many good people who ask me to vote for the amendment seem to assume that it would allow some kind of Christian prayer (even though nondenominational). But the fact is, the amendment in effect prohibits any distinctly Christian prayer. It certainly prohibits use of the traditional Lord's Prayer. It also prohibits any Hebrew prayer, or Hindu, or Buddhist, or Humanist—or what have you!

The amendment would be terribly restrictive because the only prayer it would allow legally in any school or public building is a "nondenominational" prayer. That automatically rules out all of your familiar prayers; and the big argument has only begun as to what is meant by a "nondenominational" prayer. Of those suggested, none has yet been agreed to as acceptable. Seemingly, "nondenominational" means a prayer that is meaningless, bland, without substance. Shall we have the U.S. Constitution require that only meaningless prayer, without any belief or inspiration in it, shall be legal?

In that sense, I suggest that the proposed amendment makes a mockery of prayer, it provides for cheap imitations, it places prayer in bondage and contempt, it would encourage religion by rote, by political sanction, it demeans religious faith. The amendment comes close to being blasphemy and sacrilege.

At best, the amendments if adopted might be meaningless; but I am convinced its results would be very harmful. Already there is great confusion about it. Attempts to put it into effect in the public schools inevitably would produce disruptive chaos, bitter religious arguments, endless litigation. To implement the amendment would seem to require the appointment of an official censor of group prayers in every school or other public building. Who would control that appointment?

Sponsors of the amendment say they want "voluntary" prayer. But that is not mentioned in the actual wording of the amendment, the word "voluntary" is not there. What it actually provides for is government sponsored prayer, prayers that are legally sanctioned, officially composed and provided—politically blessed. Once we establish such government sanctions, that inevitably provides the basis for subtle coercion, the use of compulsory school laws to impose official prayers and probably other controlled religious exercises.

Any such possible risk, no matter how well intended, is for me completely objectionable. It is absolutely contrary to the religious freedoms this nation has cherished. It would destroy the constitutional separation between church and state which is the essence of freedom to worship.

It is very significant that many of the major religious denominations are officially and vigorously opposed to the amendment. (Examples: The Lutheran Church of America, the American and Southern Baptist Conventions, the United Methodist Church, the United Preybyterian Church, the United Church of Christ, the Executive Council of the Episcopal Church, the American Jewish Congress, General Conference of Seventh-Day Adventists, the Friends, the National Council of Churches—these and many more officially *oppose* the amendment.)

Moreover, note that the House Judiciary Committee in 1964 after lengthy public hearings and careful consideration of this type of prayer amendment, decided against it. And in 1966 the U.S. Senate carefully considered it and voted it down. But it is now being brought back to us for a vote in the House on November 8th by a procedure which allows only one hour of debate, without any committee recommendtion or report.

Prayer for me is essentially a very personal, sacred religious experience. There is *nothing* in today's laws or court decisions which prohibits an individual from such prayer in school or anywhere else. I believe that is the way it should be, if prayer is to be really meaningful.

Therefore, I strongly rebel against any move to diminish the personal, sacred, meaningful nature of prayer and require that it be government censored and sanctioned—to make it an official formality, a mere shallow public show of devotion.

PRAYER AMENDMENT

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 1 hour.

Mr. SCHWENGEL. Mr. Speaker, the gentleman from California (Mr. CORMAN), and I, as well as others, have been leading the fight on the prayer amendment, and if everything goes according to plan, we will be discussing this matter on Monday next. Under the rule under which the bill comes to the floor we will be allowed only 1 hour of debate, and this will be woefully inadequate to discuss this important subject and consider all the implications of the amendment.

For that reason we have taken this time to place in the RECORD some observations and evaluations and some statements that I think are relevant and very important for every member to consider as we deal with this very important subject.

THE TRUTH ABOUT THE PRAYER AMENDMENT

For the first time in our nation's history a serious movement has developed to amend a key provision of the Bill of Rights in the Constitution. Specifically involved are the "religion clauses" of the first amendment which have stood as a bulwark for religious liberty since the approval of the Bill of Rights on December 15, 1971.

These clauses state: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This prohibition of government authority in the realm of religion was extended to all governments—state and local as well as federal—by the 14th Amendment and by the decisions of the U.S. Supreme Court.

The clamor for a constitutional prayer amendment has arisen because of two of the most misunderstood, misinterpreted, and misapplied decisions by the Supreme Court. In 1962—Engel against Vitale—the Court declared that Government composed and authorized prayers violate the first amendment of the Constitution. In 1963—Abington School District against Schempp, and Murray against Curlett—the Court ruled that devotional exercises in schools authorized by law are also prohibited by the first amendment.

The Court rulings were restrictions on government in the area of religious faith and practice. The rights and freedom of school children or school teachers to pray or to read the Bible were not involved in these cases.

Many people have mistakenly thought that the Court threw God out of the schools and that people who want to pray have been denied that right. Nothing could be farther from the facts in these cases.

Nevertheless, an emotion-laden movement has developed to undo what the Supreme Court is mistakenly charged with doing. This movement has crystallized into a proposed amendment to the Constitution, which reads as follows:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

At first glance many people react by saying, "What's wrong with a simple amendment like that? It is harmless, and it might do some good because the nation needs more prayer."

Others seem to think that the proposed amendment is meaningless, and if it is so harmless why make a fuss about it. "Let's go ahead and adopt the amendment," they say, "and get this bothersome religious question out of the way."

These are inadequate and irresponsible reactions to any proposal that affects in any way the basic principles of religious liberty that have served the American people so well the past 180 years.

Any effort to amend the Constitution, and especially the Bill of Rights, should not be made without full public discussion of all of the issues and without understanding the possible effects of such an action.

Without claiming a complete analysis of the effects of the proposed prayer amendment, I offer the following observations of some of the more obvious defects in this attempt to amend the First Amendment.

First, the proposed prayer amendment is supposed to correct an action by the Supreme Court which the Court never took. The proponents of the amendment in their anti-Supreme Court zeal and in their zeal to see to it that school children pray have set up a straw man. By a Constitutional amendment they propose to knock over this straw man. This is no way to amend the Constitution or to tamper with the Bill of Rights.

In the next place, the prayer amendment does not do what its proponents claim for it. They say that it puts God back into the classroom. They forget, however, that God is not moved around like a chessman either by the Supreme Court or by the prayer amendment zealots.

They say that such an amendment enables school children to engage in voluntary prayer, which, they mistakenly claim was prohibited by the Supreme Court. This right to voluntary prayer is already adequately protected by the First Amendment. It would be restricted rather than enhanced by the new proposed amendment.

What then would the prayer amendment do if it were placed in the Constitution? A cursory analysis reveals the following:

First. It protects only the "right of persons lawfully assembled." What do we mean by "lawfully assembled?" What about the rights of persons not in a "lawful assembly?" To provide constitutional rights for such a selected class of people is highly questionable and most unwise.

Second. It locates the places to which this "right" is applicable. The amendment would restrict the exercise of this right to "any public building which is supported in whole or in part through the expenditure of public funds." The right to pray should not be circumscribed in any such manner.

Third. It limits the kind of prayers in which people can participate in public buildings. Specifically, according to this amendment, the right to pray is limited to "nondenominational prayer."

This restriction on the prayer life of the people raises a number of questions which may not have been asked by the prayer amendment proponents, but which are certain to be asked by lawyers and administrators in future cases.

For instance, some arm of government, the teacher, the school superintendent, the school board, or other—must make a decision as to which prayer is denominational and which is not denominational. Government, by this act and to this extent, will be authorized by the Constitution to regulate the prayers in which people can participate. This was what the first amendment was intended to prohibit—the authority of government in the religious life of the people.

Thus the proposed amendment, which professes to provide for the rights of people in reality extends the powers of government into areas now prohibited by the first amendment.

Another effect of the prayer amendment, if it becomes a part of the Constitution, would be to introduce new and unlitigated principles into constitutional law. Such changes in constitutional principles would affect Government at all levels—legislative, judicial, and executive.

While the effects of such new constitutional principles might not be immediately apparent, only a fool would attempt to predict what actions Government might take 25 or 50 or 100 years from now. As for me, I do not want to take the risk of authorizing Government to participate in any way in regulating the religious life of the people.

The first amendment as it now stands adequately provides for the "free exercise" of religion by the people and adequately restricts Government from any activity that might be called "an establishment of religion." Both the State and the church have fared well under the first amendment. We want it to remain that way. Let us not spoil our unique arrangement in church-state relations in the United States by adding new, questionable and restrictive amendments to the Bill of Rights.

STATEMENT MADE AT PRAYER BREAKFAST BY FRED SCHWENGEL

Actually what concerns us here is not a confrontation between those in favor and those against the prayer amendment. On the issue at the very heart of this problem is our mutual concern for the essence of religion in its influence on our lives.

None of us is against religion.

None of us is against prayer per se.

It is unspeakable to think what life in our country and under our flag would be like had the influence of religion from the founding fathers to this moment been cut from our history.

What both sides on this issue seek to do is to promote religion.

The schism occurs on the simple proposition:

What is the best course to pursue? For religion—not against it!

Is the best course to violate or to deviate from the wisdom of the founding fathers in giving us the immense benefits of the first amendment to the Constitution of the United States:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . ." and so on.

And is it right that some Board of Regents, some body of educators in power, shall determine, however undenominationally, that such and such a bland—*pleasing to all*—prayer, shall be uttered in unison by a school-room of children on orders from the teacher in accordance with her instructions.

Of course the prayer is not pleasing to all as has been so overwhelmingly demonstrated.

Or, as I believe, is it really right and consonant with our tradition and our inherent religious feeling, that government ON NO GROUND—shall compel with its inevitably dead-hand any form of religious dictation upon our pluralistic system of free choice.

The policy is as clear as day in the Bill of Rights and its very first amendment as I have just in part quoted it.

The policy is supported unequivocally by the Supreme Court of the United States.

The policy now bears the imprimatur of many of the leaders of all the churches that move freely and without dictate or hindrance under our flag.

And that is the reason—precisely that—to which religion under our flag up to now has achieved such immense popular success with a very minimum of bloodshed and a very maximum of acceptance and popular support and advance.

The way to help religion is not to direct it with or without denominational emphasis this way or that.

The way to help religion is to let religion direct itself.

The way to help religion is to let it go its own way under total—I insist—total independence from government intervention.

Every statistic, every court decision, every breath of the founding fathers as concentrated in the Constitution, bears out this view.

It is not right that the school-room, supported by taxation of all the people, should take from the home, from the church, the responsibility for religious instruction in any form. And prayer in the classroom of our public schools is a callous and—from my standpoint—an unreligious opening wedge. It is a shirking of responsibility from the places where it belongs.

That job, the job of teaching our children the meaning of God, and His worship, belongs in the home, the church, the neighborhood and the community—and definitely *Not* to government.

Of course it is possible to surround governmental law on prayer in the public school-room with all manner of protective or defensive qualifications presumably making it amenable to all faiths and denominations.

Nothing could be more unrealistic, unworkable, and fundamentally dishonest.

It becomes a process not for uniting our people under a religious banner of alleged ecumenism, but of creating endless religious controversy and even genuinely religious contempt.

A child who has been instructed by his parents not to attend school-room prayer and to walk out, creates a "religious incident" and becomes something of an outcast.

I happen to be a Bible-belt product and I believe devoutly in prayer and religious education and upbringing.

But I thank God that in our country, on this soil and under this flag—no matter what *my views* may be—my neighbor, if that's his persuasion, has the absolute right, unhindered in any way, to be an atheist, if he likes. Just as I have the right to be a Lutheran or a Catholic, a Mormon or a Methodist, or a follower of the Hebrew faith or Islam.

That is the very heart-beat of freedom in the institutions of this country not only in the religious area but in other areas as well.

This country owes its greatness to its unprecedented genius for absorbing whole populations from the ends of the earth with every religious faith under the sun and having them live under our flag—with all its troubles—under a general umbrella of mutual brotherhood, however imperfect, never encountered before in any civilization of mankind.

ON THE QUESTIONS ANSWERED BY CONGRESSMAN CHALMERS WYLIE

(By Representative FRED SCHWENGEL)

Mr. Speaker, for several weeks a number of us have been trying to clarify the real issues that are involved in the proposed prayer amendment, H.J. Res. 191. It has been our contention that the proposal, ostensibly put forward in the interests of voluntary prayer in schools, in reality denies both the voluntary principle in religion and the free exercise of religion. We have contended that the proposed amendment authorizes government involvement in religion and a supervisory role in school prayers that is not in the best interests either of religion or of the state.

We are now happy to point out that the distinguished gentleman from Ohio, who has sponsored the discharge petition and the prayer amendment, has confirmed our contention by his answers to 23 questions propounded to him by Mr. Gibbons of Florida. The questions and the answers are to be found in the CONGRESSIONAL RECORD, volume 117, part 30, pages 38694–38695. One would think that on the basis of his own analysis and answers to questions by the gentleman from Florida, the distinguished gentleman from Ohio would abandon his position and appeal to you to defeat his own prayer amendment.

May I read to you the questions asked about the prayer amendment and summarize and comment on the answers given by the gentleman from Ohio.

First question. Who is to determine what is a nondenominational prayer?

We could not state our position more clearly than the gentleman from Ohio if we had composed the answer ourselves. Listen to his answer. He said that the local school authorities would determine what is a nondenominational prayer and that if the schools abuse their authority the matter would be subject to judicial review.

Now, my colleagues I ask you, when, in America, since the approval of the Bill of Rights, has it been the business of governmental authorities to determine the contents of the prayers of the people?

Second question. Assuming a school elects to have a nondenominational prayer, is it to be given during the regular school hours?

Again, our friend from Ohio says that it would be lawful under his amendment for the school authorities to provide for the recitation of a prayer during school hours. This is precisely the authority to which we object. It is not the role of government to supervise or monitor the prayer life of the

citizenry, much less the prayers of little children.

Third question. Who in the school will give the prayer?

The answer is that it would be a volunteer from the faculty, administration or student body. This is far from a good answer to the assumed desire on the part of school children to pray in school. In fact, it has not been established that the student bodies in the schools want such prayers sponsored by the school authorities.

Fourth question. May it be given out loud or silently?

Again we see the strong arm of governmental authority in prayer when we read the answer from the gentleman from Ohio. He said that the manner of praying should be left to the judgment of the local school authorities. We had been led to think that it was the religious needs of the school pupils that are being provided for by this amendment. And now it comes out that they would not be allowed to pray according to their own wishes but according to the decisions of the local school authorities.

Fifth question. Does your amendment envision that a school board should prescribe a certain prayer of their choosing as being the nondenominational prayer for their school system?

"Not necessarily," comes the answer, but then comes this revealing comment. "A local school board would have the power to say that a prayer is not nondenominational, I would think," says the sponsor of the prayer amendment. This would be a strange turn of events when a school board could determine whether a prayer is denominational or nondenominational when the religious people and organizations have not been able to agree on what is prayer. An expectation that an arm of government could resolve delicate religious issues such as this when religionists have never been able to do so is wishful thinking at best and at the worst is religious regimentation by public authority.

Sixth question. If not the school board, then would it be the principal or the teacher?

Mr. Speaker, I am amazed at the answer given by the sponsor of the prayer amendment—not really amazed at the answer as much as the fact that he would say it. Listen to his exact words. "The composition or selection of the prayer would be the function of the local school authorities."

This is precisely why we are opposed to prayer amendments. We do not believe in government authorities on any level composing or authorizing or selecting prayers for people to pray. This should be left to the people themselves, and it is this right that is guaranteed by the First Amendment as it now stands and as it is interpreted by the U.S. Supreme Court.

7th Question. Would your amendment allow police or judicial action to prohibit a prayer in a public building because it did not meet their interpretation of being a nondenominational prayer?

"Of course," answers the prayer amendment sponsor.

Shades of the dark ages! I never would have imagined that in our "land of the free" we would ever be faced with judicial or police authority to determine the contents of our prayers. For the sake of our children, for the sake of voluntary religion, for God's sake, let's defeat this perverse prayer amendment and continue our protection against government intrusion into our prayer life.

8th Question. Under your amendment can the federal government decide what is a nondenominational prayer?

The answer is that it should be the local school authorities, but in the case of a federal school "It would be within the power of the appropriate federal official to decide whether a prayer is nondenominational."

9th Question. Who in the federal government would decide?

The answer is summed up in the words of the prayer amendment sponsor, "I would assume that the official in charge of any specific activity where a prayer was a part would have the primary responsibility to say whether it was or was not nondenominational."

10th Question. Does your proposed amendment prevent the giving in a public building of a prayer that has not been classified as nondenominational?

The answer to this is as shocking as the full implications of the proposed prayer amendment itself. Hear the sponsor as he says, "The amendment would legitimize prayer if it is 'nondenominational.'"

There you have it loud and clear. This prayer amendment would "establish" a public school religion of "nondenominationalism." This must never happen in America, a nation to which many of our forefathers fled to escape religious persecutions and government determination of their religious life.

11th Question. When are persons not "lawfully assembled" under your amendment?

An ambiguous answer: "persons lawfully present at other lawful gatherings in public buildings would be included." Does the gentleman from Ohio mean that persons gathered to pray a denominational prayer in a public building on an unpopular issue could be dispersed as an unlawful assembly?

12th Question. Many church-related hospitals receive public funds—will your amendment restrict persons in these buildings to nondenominational prayers?

Mr. Wylie answers no, then proceeds to assert that providing for nondenominational prayer is expanding the right of persons not free to engage in denominational prayer.

13th Question. Under your amendment must all prayers in public buildings be nondenominational?

Mr. Wylie's contention that there are institutions which are now precluded by the Supreme Court's decisions from allowing any prayer of any type is false. The Court ruled against a government prescribed prayer and required devotional exercises.

14th Question. Is the purpose of your amendment to negate the Establishment Clause of the First Amendment by establishing a nondenominational prayer as a religion?

No, the gentlemen from Ohio declares, "the allowance of nondenominational prayer does not constitute a 'law respecting an establishment of religion,' in the words of the First Amendment."

Mr. Speaker, I contend that official prayers sponsored by government or agents of government at any level, whether they be nondenominational or denominational, are the first steps to the establishment of a religion. Nondenominationalism in this country is a flourishing type of religious expression supported by hierarchical structures which are as effective in their way as mainline denominational systems are in their way.

15th Question. Would you please define prayer as used in your resolution. Is it to be silent? Oral? In unison? To whom is it to be addressed? God? Jesus? Our Father? May it end with the words, "In Jesus' name. We pray, amen"?

Here again Mr. Wylie clearly indicates that government authority of some kind would be involved in drafting the "content and format" of prayers.

16th Question. Is the nondenominational prayer limited to the Christian religion? Is nondenominational prayer limited to the Judeo-Christian faith?

Our friend from Ohio refers back to his answer to number 10 which gives approval to limitation of the prayer to the Judeo-Christian faith.

17th Question. Do you envisage that "participation" as used in your proposal in all cases be "voluntary" or "noncompulsory"? If your answer is "yes" why were these words not included in the proposal.

Mr. Wylie said his answer was "yes" and that the words "voluntary" and "noncompulsory" were unnecessary. Does he mean that these concepts are unimportant? Or are they simply unnecessary in his desire to get government involvement in the prayer life of school children?

18th Question. If the nondenominational prayer that you propose is to be used in the classroom, and is voluntary or noncompulsory as far as the pupil is concerned, does the teacher have the same right as the pupil in this regard?

Mr. Wylie answers yes and seeks to support his view in answering question no. 19.

19th Question. If the nondenominational prayer is voluntary, how is a dissenting pupil or teacher to respond while the prayer is being offered?

Here our friend from Ohio subscribed to the idea that it is a wholesome thing for a member of a minority religious sect to withdraw from his fellow classmates either by standing or sitting "in respectful attention" while his peers take part in the ceremony. Or he may leave the room. The establishment of any religious practice by any unit of a government always leaves the dissenter in a precarious position should he choose to assert his conscience with respect to his religious beliefs.

20th Question. Are you attempting in any way to nullify the Establishment Clause of the First Amendment?

The prayer amendment sponsor answers with a resounding "No," and he then accuses the Supreme Court of changing the meaning of the First Amendment. This reminds me of the man who was caught in bed with another man's wife. He sat right up in bed and denied it!

21st. Question. If you concede the right to pray is an unalienable right and government may not constitutionally prohibit prayer, will not all those who are lawfully assembled in a public building be denied their constitutional right if the appropriate public body has not decided upon a nondenominational prayer?

The gentleman from Ohio does not really answer this question in his reply. He asserts that the public authorities involved would have to determine whether or not prayer is appropriate on such occasions.

22d. Question. If a public body was unable to determine what was a nondenominational prayer, or if a dissatisfied citizen disagreed with the decision, would this type of action be appealable to the Federal courts?

The reply is that there is no limit to constitutional relief in such cases. I can envision hundreds of court cases, deplorable community strife, and an complete paralysis of the free and voluntary exercise of religion by school pupils.

23d. Question. What do you mean by "in part"? Is it a majority of the funds or any part, no matter how small?

While the gentleman from Ohio says that the "in part" must be a substantial part, there is no way to tell how a court may decide since the amendment itself says "any public building supported in whole or in part by public funds."

May I take this opportunity to thank the gentleman from Ohio for his answers to these pertinent questions. He has confirmed all our doubts and fears and has given the House of Representatives the best reasons for rejecting in toto the proposed prayer amendment. We hope that on November 8 this proposal can be killed so dead that it will never be resurrected to haunt the free exercise of religion again.

[From the Milwaukee (Wis.) Sentinel, Nov. 4, 1971]

DESERVES DEFEAT

The House of Representatives is scheduled to vote on the following proposed constitutional amendment on Monday:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any pubilc building which is

supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

This proposed amendment is an outgrowth of the 1963 Supreme Court decision which disallowed prayer exercises imposed by school authorities upon public school students. The late Justice Hugo Black, who delivered the opinion in the case, summed it up by saying that ". . . the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government."

In a way, it was unfortunate that this issue was taken all the way up to the Supreme Court. But, confronted with the necessity of ruling on the issue, the high court had no choice but to find any sort of formal religious exercise in public schools unconstitutional.

The ruling did provide the basis for a lot of jokes about praying in school, which gave some support to the campaign to adopt the prayer amendment but which did not alter the fundamental fact that the government has no business making a religious exercise a part of the public education system.

The proposed prayer amendment was kept bottled in committee until this year when proponents succeeded in getting the signatures of a majority of House members on a discharge petition to bring the measure directly to the floor.

This would indicate that the amendment will be adopted by the House and be sent on to the Senate. There has been, however, a ground swell of opposition. Denomination after denomination has come out against it, as it dawned on more and more people that what the amendment would actually do is establish a secularized, ceremonial, state approved form of worship.

As a Baptist resolution opposing the amendment put it, "We fear that, if such a proposed amendment would become a part of the Constitution of the United States, a new religion of 'nondenominationalism' would in a measure become established which could threaten the integrity of both church and state."

The proposed prayer amendment deserves to be soundly rejected by the House.

WHAT PERSONS WOULD FRAME NON-DENOMINATIONAL PRAYER?

EDITOR, WEST BEND NEWS:

You rendered a public service in printing "A non-denominational prayer." It alerted your readers to the impending attempt in Congress to pass an amendment to the Constitution legalizing a "non-denominational prayer" by school children in tax-supported schools. This is the plan of forces seeking to destroy the Constitution's separation of church and state.

The promoters of this attack on the church-and-state provision do not explain who will frame this prayer. Maybe by one of those committees a President names to solve his problems? Where can the make-up be found? Abroad the members of one religion are shooting one another. In our land heresy trials are causing divisions.

To whom or to what will this projected prayer be raised?

Each zealot has his own candidate, hence the thousands of rivaling different houses of prayer. So why add the public schools to the list. And why legislate that pupils must pray there? Why not in their own homes? In privacy?

The forces that seek to circumvent the Supreme Court's ruling on the separation of church and state have induced the requisite number of representatives to bring the bill before the House. It could pass if the citizens who want the church and state ruling protected fail to tell their Representatives to vote NO. The Daily West Bend News prints your Congressman's name and address. Do it now.

WALTER A. SINCLAIR.

WEST BEND.

[From Church and State, Sept. 1971]

TAMPERING WITH THE FIRST AMENDMENT

The newest effort to amend the religious freedom clause of the First Amendment is led by powerful lobbies with the aim of promoting religious exercises in the public schools. These groups are concerned that the Supreme Court may have unduly curbed the free exercise of religion in the 1962 and 1963 school prayer rulings. Their answer is to amend the First Amendment so as to specifically permit voluntary "nondenominational prayer." Backers claim they have 175 of the 218 votes needed to discharge the proposal from the House Judiciary Committee and bring it to a House vote.

Objectors point out that the Supreme Court did not outlaw voluntary prayer in the schools, that the proposed amendment would add nothing to liberties already enjoyed, that government would be prescribing the kind of prayer that could be offered—("nondenominational"), and that the amendment might open the way to attacks on church-state separation.

The proposed amendment reads: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

Similar proposals were defeated in recent years in both the House and Senate due largely to substantial opposition by religious leaders and constitutional authorities. The present proposal, like the earlier ones, has seen the religious community vigorously divided, but with a clear majority of religious leaders opposed to any change in the Bill of Rights.

John W. Baker, acting executive director of the Baptist Joint Committee on Public Affairs warned on July 21 that the proposed amendment could "circumvent the First Amendment freedoms" and "alter existing church-state relations." Many denominational leaders in Washington, D.C. share the Baptist leader's dislike for any meddling with the First Amendment.

ALLEN STATEMENT

On July 29, Dr. Jimmy R. Allen, president of Americans United as well as the Baptist Convention of Texas, issued the following statement on the proposed amendment:

"The current campaign to bulldoze the U.S. House of Representatives into tampering with the religious freedom guarantees of the Constitution is a dangerous assault on the liberties of all citizens. Americans United and its 100,000 members, most of whom are dedicated church members, are strongly opposed to the attempt to force a vote in the House on the proposed constitutional amendment to permit 'nondenominational' prayer in public buildings.

"Both Houses of Congress have examined such proposals in recent years and found them either meaningless gestures or dangerous restrictions on religious freedom. The Supreme Court, in protecting children from imposed or mandated religious observances, has made it clear that students and adults have always had the right to pray voluntarily in school or anywhere else. The nation's most eminent lawyers and religious leaders have told Congress that no 'prayer amendment' is needed to safeguard anyone's rights.

"The right to pray is presently quite safe. There are no restrictions anywhere on voluntary prayer. This being so, the promoters of a 'prayer amendment' evidently are seeking to pave the way for some sort of official prayer or religious observance. Surely a watered-down 'nondenominational' prayer, whatever that might be, must be meaningless or either offensive or blasphemous, and certainly not pleasing in the sight of either God or man.

"Further, the proposed amendment even purports to restrict prayer in public places to 'nondenominational' prayer. How could any American tolerate for a moment a government edict that his prayers in certain places must be 'nondenominational'? The promoters of this proposed amendment certainly cannot be friends either of genuine prayer or of religious liberty.

"Since the God-given right to pray is already secure, the proposed prayer amendment can only serve those who, using the mask of 'voluntary nondenominational prayer,' would impose sectarian practices on children and other citizens, assembled under compulsion, as under the school attendance laws. This would result inevitably in intercreedal strife and pave the way for all sorts of violations of the religious liberty of all citizens.

"Prayer and the right to pray must be beyond the power of government or politicians to either promote or hinder. Tampering with our Constitution's sacred principle of separation of church and state is a dangerous game. The best thing that government can do for religion is to let it alone. Religion has grown and thrived in America precisely because we have kept church and state separate. Religion has sunk to its lowest ebb in lands where government has sought to promote, sponsor, or meddle with it. 'Officializing' religion can only harm it.

"Americans who pray and who know what prayer is all about need no change in the Constitution to aid them. We call upon Congressmen who have mistakenly signed the discharge petition to withdraw their names in the interest of protecting religious liberty."

RELIGION IN THE SCHOOLS

In June 1963 the United States Supreme Court handed down its decision in *Abington School District* v. *Schempp*, 374 U.S. 203 (1963). This was the "Bible" case, decided one year after the "Prayer" case, *Engel* v. *Vitale*, 370 U.S. 421 (1962).

There is still considerable confusion among the general public and some school officials as to precisely what these decisions prohibited under our Constitution and, more importantly, what they did not prohibit. Certaintly the Supreme Court did not "expel God" from the classroom as some have alleged. Nor did the Court prohibit recognition of the existence of God in our public life. Rather, the Court found unconstitutional the requiring of certain specific practices in public schools as part of a religious exercise or program. Had the Court ruled otherwise, it could have put itself in the position of having to approve tax aid to parochial schools.

Some persons have spent more time condemning the Court for the decisions than in learning exactly what the Court said and in making use of the opportunities which the Court plainly advanced. It is well, then, to examine the Court's decisions to appreciate not what was prohibited as much as what was permitted within our constitutional framework.

In its decisions the Supreme Court held the following activities in public schools to be unconstitutional: requiring the recitation of an official nonsectarian prayer as part of a religious exercise (*Engel*); and/or requiring the reading of a portion of the Bible or the recitation of the Lord's Prayer as part of a religious exercise (*Schempp*).

WHAT IS PERMITTED

The following activities were found by the Court to have no constitutional restraint: use of the Bible as a reference work for the teaching of secular subjects (*Schempp* at 224); study of the Bible for its literary and historic qualities (*Schempp* at 225); objective instruction in comparative religion or the history of religion and its relationship to

the advancement of civilization (*Schempp* at 225); use of historical documents, such as the Declaration of Independence, which contain reference to God (*Engel* at 435); singing officially espoused anthems which include the composer's profession of faith in God (*Engel* at 435); and patriotic or ceremonial references to God (*Engel* at 435).

In addition, Justice Brennan, in a concurring opinion in *Schempp*, indicated that the following activities would appear to be constitutionally permissible; providing chaplains at military establishments and in penal institutions (*Schempp* at 296–97); exempting ministers and divinity students from military service (*Schempp* at 298); excusing children from school on their respective religious holidays (*Schempp* at 298); providing temporary use of public buildings to religious organizations when their facilities are unavailable because of emergency (*Schempp* at 298); saying invocational prayers in legislative chambers in the presence of adults who may absent themselves from such ceremonial exercises without incurring any penalty, direct or indirect (*Schempp* at 299–300); using the motto "In God We Trust" on currency, documents, and public buildings as devoid of religious purpose or meaning but recognition of historical fact (*Schempp* at 303); referring to divinity in the Pledge of Allegiance as merely recognition of the historical fact that the nation was believed to have been founded "under God" (*Schempp* at 304).

In sum, the *Engel* and *Schempp* cases sought only to prohibit government from requiring or sponsoring a religious exercise or devotion in the public schools. To have sanctioned such activity would have permitted "establishment of religion" by governmental fiat in violation of the First Amendment of the Constitution.

Also, to have held otherwise and permitted required religious exercises in public schools would have invited the religious conflict our forefathers sought to avoid. Across our nation heated debate and argument would have ensued over such subjects as whether the Protestant King James Version or the Catholic Douay Version of the Bible should be used, whether only selections from the Old Testament should be read, or whether the Lord's Prayer (Protestant or Catholic version) or the Hail Mary could be substituted for a secularistic prayer written by a state agency, or whether a Jewish or Buddhist prayer should be offered—depending on which group predominated.

All have a right to worship according to the dictates of conscience, not according to the dictates of some public official.

The Court did not in any sense prohibit an individual from praying in the public school, or from reading the Bible or any other literature regarded as sacred by any religious body. It did prohibit one from praying or reading sacred literature as a part of a devotional or religious training course conducted on public school property or under public school sponsorship. In other words, the Court did not rule against prayer in the public school, but against a "prayer meeting"; not against worship, but against a secularly supervised worship service conducted on public school property and under the auspices of secular, i.e., public authorities.

The pupil may pray or read the Bible for himself, but no one in the public school can tell him what to read, or what to pray, or read or pray to him or for him.

As the foregoing indicates, recognition of the existence of God in the public school system and throughout our public life has not been barred by these decisions. Teaching in public schools *about* our religious heritage as a significant part of this country's history is proper. Teaching *of* religion to children is properly relegated to the home and church and not to the public school teacher, who customarily professes no competency in this area and who might espouse religious beliefs contrary to those one might wish his children to be taught.

There have been attempts, of course, to have the Constitution amended to set aside the Supreme Court rulings. However, the preponderance of expert legal and religious opinion presented at Congressional hearings on proposed constitutional amendments opposed any change in the First Amendment. The advocates of amending away the effects of the *Engel* and *Schempp* rulings were unable to convince Congress that any "prayer amendment" was needed.

This subject is covered well in such books as John H. Laubach's *School Prayers: Congress, the Courts, and the Public* (Public Affairs Press, 1969) and Leo Pfeffer's *Church, State and Freedom* (Beacon, 1967).

The Court specifically declared in *Schempp:* "[I]t might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment."

A CHALLENGE AND A WARNING

Justice Brennan, in a concurring opinion, stated: "The holding of the Court today plainly does not foreclose teaching about the Holy Scriptures or about the differences between religious sects in classes in literature or history. Indeed, whether or not the Bible is involved, it would be impossible to teach meaningfully many subjects in the social sciences or the humanities without some mention of religion. To what extent, and at what points in the curriculum, religious materials should be cited are matters which the courts ought to entrust very largely to the experienced officials who superintend our Nation's public schools. They are experts in such matters, and we are not." (*Id.* at 300.)

Such statements were and are a challenge for a meaningful incorporation of instruction *about* religion in our public schools.

Many public school systems have developed courses, or units within traditional courses, to deal with religion. Some programs undoubtedly meet constitutional requirements for objectivity and neutrality. Others are surely impermissibly partisan or sectarian, and some are difficult to evaluate. The Religious Instruction Association (4001 Fairfield Avenue, Fort Wayne, Ind. 46807) serves as a clearing-house for information on what is actually being taught or planned, though it makes no attempt to judge or evaluate materials and programs from the standpoint of constitutionality.

So many different things are being done in schools around the country that no really adequate survey of existing programs is available, and still less has been done to ascertain the degree to which most programs meet the criteria of objectivity and neutrality.

Among the current offerings of public school teaching *about* religion are the following examples:

Holland, Mich., offers a twelfth grade elective course on the Bible. Needham, Mass., has a Bible-as-literature course. Elective courses on the Bible are offered in Corpus Christi and Dallas, Tex.; Bloomington, Ind.; Flat Rock, Mich.; Lynnfield, Mass.; Sidney, Nebr.; Altoona, Pa.; and Bound Brook, N.J.

Some schools incorporate teaching about religion into history, social studies, or humanities courses. Merritt Island, Fla., has units on several religions in a humanities course. A twelfth grade social studies course surveys modern religions of the world in Conneaut Lake, Pa. In Hinsdale, Ill., religion figures in World Culture, sociology, and psychology courses. St. Louis, Mo., has an elective ½ credit course in comparative religion for grades 10–12. Freeville, N.Y., has an elective comparative religion course and deals with religion in a world philosophy course. Artesia, Cal., has a historical survey of religions in the United States in a grade 8 one-semester elective course.

A 1970 survey by Alan Gorr of Augustana College in Rock Island, Ill., indicates that roughly half of the nation's larger high schools have courses or course units which "teach about religion objectively".

A major problem is highlighted by the fact that only five states are known to have written policies or guidelines to help local school boards and staffs to develop curriculum offerings in the field of religion. Oregon's 1969 policy statement strictly emphasizes neutrality and objectivity and bars the use of public funds for devotional displays.

But even the Oregon policy statement does not reach the heart of the matter. The selection of curriculum materials and the proper training and orientation of teachers are critical. Some of the curriculum material and course guides examined by the Americans United staff clearly do not meet the constitutional criteria of objectivity and neutrality. The development of proper policy statements and guidelines as soon as possible in every state is important, and programs which do not measure up constitutionally should be cleared up or eliminated. Groups concerned with maintaining church-state separation should be consulted in the preparation of materials or guidelines.

Americans need to understand what the Supreme Court ruled in *Engel* and *Schempp*. Time and energy spent in attacking the Court, or in promoting proposed constitutional changes which could wreck church-state separation, could be better spent on learning what the Court actually said.

RELIGIOUS LIBERTY DEFENSE

Although some religious leaders reacted negatively to the Court's prayer and Bible reading decisions, careful reflection and study of the rulings led most religious leaders and denominational bodies ultimately to endorse them heartily as defenses of religious liberty.

We need to remember that the job of the public schools is education and not religious indoctrination. Who, indeed, would really want to place the responsibility for religious training—training for commitment—in the hands of public officials? There is wisdom in the present arrangement which permits public education to deal objectively and neutrally with the role of religion in society but leaves religious training instruction, and devotions to the home and the church. This arrangement places responsibility where it belongs and preserves the American constitutional principle of separation of church and state.

As the Supreme Court said in *Schempp:* "The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church, and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade this citadel, whether its purpose or effect be to aid or oppose, to advance or retard."

President John F. Kennedy, approving the *Engel* ruling, described it as "a welcome reminder to every American family that we can pray a good deal more at home and attend our churches with a good deal more fidelity. . . . I would hope that as a result of this decision that all American parents will intensify their efforts at home, and the rest of us will support the Constitution and the responsibility of the Supreme Court in interpreting it."

MORE ON PRAYER AMENDMENT

(By Hon. FRED SCHWENGEL)

Mr. SCHWENGEL. Mr. Speaker, the October 28 issue of the Burlington Hawk-Eye contains a column entitled "Today's Religion" by Lester Kinsolving. Mr. Kinsolving's column contains some very astute observations with respect to the so-called "prayer amendment." I commend it to my colleagues.

THE CONGRESSIONAL PRAYER-MERCHANTS

(By Lester Kinsolving)

WASHINGTON, D.C.—Like a sort of 17-year-itch, what might be described as "The Prayer-Merchants of Congress" are at it again in a recurrent attempt to pass a Constitutional Amendment permitting prayer in public schools—over the vehement objections of numerous religious leaders.

Led by Rep. Chalmers P. Wylie (R-Ohio), 218 members of the house overrode their own Judiciary Committee with a discharge petition to bring to the House floor for an impending vote the following proposed amendment:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

This purportedly pious proposal has been strongly opposed by an impressively varied number of religious leaders, led by the Rev. Carl Bates, president of the nation's largest Protestant denomination, the Southern Baptist Convention. Seven other Baptist denominational leaders, as well as boards or leaders of such denominations as the Episcopal, United Methodist, United Presbyterian, Lutheran Church in America, Friends, Mennonite, Brethen, Unitarian-Universalist and thirteen Jewish organizations have all cosigned the Baptist petition which charges:

"If such a proposed Amendment becomes a part of the Constitution of the United States, a new religion of 'non-denominationalism' would in a measure become established, which could destroy the integrity of both church and state. . . We deny that any elected body or governmental authority has the right to determine either the place or content of prayer as is implied in the proposed prayer amendment."

The religious leaders' petition also affirmed the U.S. Supreme Court decisions of 1962 and 1963, which, they said, "properly prohibited government intrusion into the religious activity of school children." And the only Catholic priest who is a member of Congress, Rep. Robert Drinan (D-Mass.) has stated:

"I think it is always short-sighted and unwise for those who do not obtain what they desire from the nation's highest tribunal to then go to Congress seeking to change the Constitution itself."

The Prayer-Merchants can count on winning points for piousity from some quarters—from the same kind of people who will brand any Congressman opposing this Amendment as being "anti-prayer" or even "anti-God."

But a growing number of religious leaders are beginning to wonder just how many of the Prayer-Merchants invariably have family prayers at breakfast—and how many of their children take advantage of their opportunity to pray privately during recess.

They are also wondering whether any child should be forced to undergo the daily embarrassment of asking to be excused for two minutes in lieu of being present for compulsory worship. Should a Catholic child be subjected to anti-Papal prayers as ordered by a school board of extremist Protestants? Should a Protestant child be obliged to be present for Hail Marys? Ought Jewish children be obliged to be present for prayers "through Jesus Christ, Our Lord"? What if the school board happens to be dominated by Black Muslims? Are the children of America's agnostics and atheists to be provided no protection from government-imposed theism?

Religious leaders are becoming increasingly aware that the two-minute "non-denominational" prayers (whatever this means) have often in past been used as a convenient surrogate for the obligation of school boards to teach about religion—which the U.S. Supreme Court upheld as constitutional (but which was generally overlooked in the furor over its school prayer decisions).

There is also the question as to just how much effect these compulsory prayers have upon the students—which was amply illustrated by the report of one Washington, D.C. daily, regarding an experiment in Maine. A school teacher surprised her classes by requiring that they write out the Lord Prayer, which they had been reciting daily for years. Results—from students identified as above average:

"Our Father, who art in Heaven, halloween thy name . . ."

"Give us this day our daily trespasses . . ."

"Forgive us this day our daily bread . . ."

MORE ON PRAYER AMENDMENT

Mr. SCHWENGEL. Mr. Speaker, One of the best analysis of the "pro and con" arguments in the dispute over the so-called prayer amendment appeared in my hometown newspaper, the Davenport Times-Democrat. The initial articles by Roger Munns appeared in the October 30th issue of the paper, and were followed by a summary in October 31, 1971.

THE DEBATE OVER SCHOOL PRAYER

(By Roger Munns)

For the first time in eight years, the long-dormant hot-potato issue of prayer in public schools will be tackled by Congress.

On Nov. 8, the House of Representatives will begin debate on a proposed amendment to the U.S. Constitution to allow "nondenominational" prayer in public institutions, the first action taken since the Supreme Court's memorable decision in 1963 banning bible reading in schools.

Rep. Fred Schwengel, R-Iowa, is leading the fight against the amendment, while a group known as the Citizens for Public Prayer is pushing the campaign for adoption.

The proposed amendment states:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through expenditure of public funds to participate in nondenominational prayer."

THE CASE FOR

"Of course there should be prayer in the schools," says Mrs. Dean Jasper, of 1207 17th St., Bettendorf.

"I think we all should be aware of the presence of God and I don't think it would offend anybody."

She added that her two children in public schools would benefit from the practice.

She echoed the opinions of several other persons contacted at random by the Times-Democrat who said they support the "prayer in schools" issue.

Opponents of the plan, notably Rep. Fred Schwengel, R-Iowa, plus Constitution experts and most area religious leaders, say the amendment is contrary to the long-established principle of separation of church and state, that a "nondenominational" prayer does not exist and any prayer so constructed would offend persons of various religions.

The main proponent for the plan is Rev. Robert G. Howes of Arlington, Va., Washington lobbyist and spokesman for the Citizens for Public Prayer, a national coalition of groups backing a restorative prayer amendment.

Rev. Howes told the Times-Democrat, "Never before in our history has it been more necessary that we get a grip on ourselves, that we find our spiritual heritage.

"We must stop and think awhile about the brotherhood among us, examine our consciences."

In a pamphlet written in 1968, he said, "There is no question that God belongs in the homes and the churches of America."

"There is no question that serious reexamination of His presence there is imperative.

"But religion is not strengthened at the hearth and the sectarian altar by denying it entry to the public classroom. Religion is not strengthened in the heads and hearts of American youth by wiping it off their lips precisely where most of them prepare for citizenship in a reverent society."

Msgr. Sebastian Menke, president of St. Ambrose College in Davenport, agreed.

"The public school system fosters a philosophy of life which has its own definite values and by excluding religion from the schools, it really says to children that religion is something they can take or leave. That it's a fringe benefit."

He said the pro-amendment persons were making "a good effort, if only to make people aware of the need of some kind of religion in connection with life."

He questioned the practicality of such an amendment, however, saying, "If you had even one atheist who says he doesn't want any recognition of God in the classroom, you would be hard put to say you would go ahead anyway."

But Rev. Howes believes a "nondenominational" prayer, which would offend no one, could be constructed.

Religious leaders "are working together more now than ever before. They are not jealous foes and robber barons fighting each other for every inch," he said.

"To suppose that any group of Americans with a sectarian majority would be so callous of its neighbors as to insist on a sectarian prayer in their schools is to fly in the face of the great bulk of American experience.

In the pamphlet, he said, "What is clearly urgent in this entire issue of majority-minority rights is a reasonable pluralism, the kind of adjustment and prudential accommodation which mature men make with their neighbors in any complex matter in which a common decision is required."

He said, "If faith groups are going to fight over every period, we aren't going to get anywhere. We are talking about honorable and reasonable solutions."

To the argument that such a prayer would standardize and take away the individuality of each religion, Rev. Howes said, "They should be applauding the new brotherhood between religions."

Of Schwengel and others who contend that such a prayer would be so stripped in content as to be meaningless, Rev. Howes said, "These are the generals without armies.

"They spend most of their time trying to come up with prayers they will be saying before mixed religious groups. Their own experience contradicts them on this issue."

Citing what he said was mass public support for the amendment, he said passage would be a "vindication of the democratic process. Clearly, on few, if any, other issues are the people more united. We are completely overlooking the civil rights of the vast majority of American people who want children to pray in schools."

The issue has been challenged as threatening the long-established separation of church and state, as set forth in the First Amendment to the Constitution.

Rev. Howes countered, "The amendment only meant that government could not support an institutional church. To the contrary, we are defending the Bill of Rights, trying to restore a substantial matter of free exercise of religion as the Constitution guarantees."

Finally, on the Supreme Court's decisions banning school prayer, Rev. Howes said, "We believe this is very serious precedent. These

decisions could very well enter into a series of precedents."

Among them, he said, would be the eventual elimination of references to the deity on coins and paper currency, in the pledge of allegiance to the flag, in Thanksgiving prayer and the elimination of chaplains in the armed services.

The court has said the decisions should not be construed to include firmly entrenched, well-established practices that have few, if any, denominational overtones.

But Howes said, "People who say that are what we call minimalists—those who try to minimalize what the court did.

"They are trying to tell the people that a practice that worked for many years is not good and is unconstitutional. They are trying to square a circle and it won't work."

THE CASE AGAINST

"Good heavens, I'm not against prayer!" says Fred Schwengel, R–Iowa.

Citing his track score in which he has consistently stood up for religious groups, Schwengel said it was not at all inconsistent that he is leading the fight against a proposed amendment to the U.S. Constitution that would allow "nondenominational" prayer in public schools.

Schwengel has joined several national religious leaders and leading constitutional experts who oppose the proposal being pushed by the Citizens for Public Prayer.

Schwengel has repeatedly said such an amendment would allow the state to write the prayer and that such action would "weaken all religion."

"I'm not against this proposal because of religion, I'm against it for the sake of religion," he said.

"I recognize that no free society can function without a solid moral base. Very wisely, our forefathers, in the Bill of Rights, declared for freedom OF religion, not FROM religion."

He emphatically added, "The proposed amendment would tend to standardize and weaken prayer. Who would write it? Who would agree to it?

'Are you going to have to accept a school board's version? This will cause more difficulty among the denominations than you can image."

He said, I'm opposed to it because it's both bad law and bad religion."

On the U.S. Supreme Court's Bible-reading ban in 1963, Schwengel said, Many people mistakenly believe that the court threw God out of the school and that people who want to pray cannot.

"Nothing is farther from the truth."

His grandchildren attend a public school in Arlington, Va., Schwengel said, "and every day they open their classes with a moment of silence.

"Prayer is a very personal, meaningful thing, not something that is the same for everyone. Anyone can pray at any time."

In addition, he contended that the court has not "outlawed" the widespread use of religious courses that study various religions from a historical and literary point of view.

"The Supreme Court did not take prayer out of the school. It said you cannot write and direct a specified prayer."

John Schmidhauser, University of Iowa political science professor and instructor in constitutional law, said he agreed with the Supreme Court's judgment and said the amendment would be contrary to the principle of separation of church and state.

"I agree with the late President John F. Kennedy," he said, "All people with strong ethical convictions should be given every opportunity to observe their belief in private.

"But I'm not at all in favor of a reversal of the underlying constitutional principle that we maintain church and state separation.

"We should search our consciences and look to the great benefit that our full constitutional system has had by maintaining religious freedom."

Schwengel said, "The amendment would be the breakdown of this separation. Whenever in history there has been a church-dominated or state-dominated people, neither one has served the public interest very well. We must be forever jealous of this separation. Diversity brings us together."

Schwengel said he was particularly opposed to the amendment because it does not state that participation in "non-denominal" prayer shall be voluntary, he said.

Rev. Robert Howes, spokesman for the prayer group, said a child could choose to leave the room if he did not want to participate, but Schwengel scoffed, "Children don't work like that and you know it."

Robert Nuquist, lawyer and professor of history and government at Black Hawk Junior College, Moline, agreed. "You cannot force children to listen to prayers if their parents don't want them to. If the amendment were to pass, this would bring ridicule on many children."

John Norton, chairman of the political science department at St. Ambrose College, Davenport, also said he was opposed to the principle of subjecting school children to a "nondenominational" prayer, but he said the amendment, if adopted, would cause little change.

"When the chips are down, local school boards would duck the issue. There wouldn't be as much pressure as you think."

Schwengel said the main House proponent for the amendment, Rep. Chalmers P. Wylie, R-Iowa, has argued that Congress opens each session with a prayer and members hold prayer breakfasts.

"I attend every one of those," Schwengel said. "But there's one big difference. It's voluntary."

On the amendment as a political issue, Norton said, "Nobody wants it but nobody wants to be against God either."

But Schwengel said, "Sometimes things come along and you don't think about the political issue. Let the chips fall where they will. I have a deep and almost passionate feeling on this issue."

Schwengel said that when he first started his fight against the amendment, his mail ran 7–1 against him, but that with increased public awareness of the issue, he is now receiving a 3-to-1 ratio in favor of his stand.

He said if the odds were even that the House will pass the amendment, but 'if we make a good showing, and we will, the Senate will kill it."

If the House passes the proposal, it would have to be confirmed by the Senate, then ratified by 38 of the states.

[From the Davenport-Bettendorf (Iowa) Times-Democrat, Oct. 31, 1971]

NO NONDENOMINATIONAL PRAYER

(By Roger Munns)

"There's no such thing as a nondenominational prayer," says the Rev. R. T. Latham, pastor of the Unitarian Church in Davenport.

In denouncing a proposed amendment to the U.S. Constitution that would permit "nondenominational" prayer to be offered in public schools, Rev. Latham joined most other area church leaders contacted by the Times-Democrat.

The proposed amendment is intended by its sponsors to overcome the 1963 decision by the U.S. Supreme Court that it is unconstitutional to recite prayers in school classrooms and other public places.

In order to circumvent the decision, which is based on the constitutional principle of separation of church and state, the proposed amendment stipulates that only "nondenominational" prayers could be offered in public places.

Rep. Fred Schwengel, R-Iowa, is spearheading opposition to the amendment in Congress.

On Nov. 8, the House of Representatives will begin debate on the amendment:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through expenditure of public funds to participate in nondenominational prayer."

Rev. Latham said, "How can you have a prayer that would not reflect a denomination?"

The Rev. W. H. Grindstaff, pastor of the First Baptist Church in Bettendorf, said, "I don't know of a nondenominational prayer.

"In such a prayer, you couldn't address a deity. You couldn't say 'God' or 'Jehovah.' You couldn't say, 'In the name of Jesus Christ.' You couldn't even use 'amen.' "

Rev. Latham was outspoken on the issue.

"My response is very negative. To begin with, it's unconstitutional. The amendment is designed to appease the critics of prayer in school by using the word 'nondenominational.' The usage is totally inane. It's a verbal play to try to get past the basic crux of the whole issue.

"That is, of course, the separation of church and state."

He also said, "Who's going to make the determining judgment? What's the logic in the rationale that requires we have prayers in public school? To whom can you pray but to a god of some type?

"It would not only offend children, but it would be tantamount to imposition of some religion."

He agreed that clerygmen are often called to deliver invocations and benedictions at meetings of persons of mixed religious backgrounds.

It is this type of prayer that proponents of the amendment, notably the Rev. Robert Howes, Arlington, Va., a Washington lobbyist and spokesman for the Citizens for Public Prayer, say could be used in schools.

Rev. Latham said he often says prayers for mixed groups but, "They're never nondenominational. The very term 'God' implies a denomination theology."

On the other hand, he said, the clergyman has the option of making an "aspiration," or a prayer without diety.

He gave an example: "As we involve ourselves in an occasion which speaks to the commitments of the past, the accomplishments of the present and the venture of the future, may we do so with mutual blessing and humility."

He said, "Anybody can make an aspiration. No amendment is needed."

He said he suspected persons favoring the prayer amendment would not accept the aspiration.

"They are people of the cultural conditioning in this country who believe that the survival of this country depends on man's proper obedience and obeisance to a god, preferably their particular God. You secure this blessing through prayer," Rev. Latham said.

He repeated that such a prayer, said in public schools, would be a religious imposition.

Rev. Grindstaff said, "I think basically our churches and our homes are the place for religion. As an individual, I would just as soon have my children taught the 'three Rs' in school."

Rev. Grindstaff mentioned a common argument among most clergymen—that if a nondenominational prayer could be constructed, it would be meaningless, or severely restricted in religious value.

"So many times an invocation is so watered down that I don't say anything. A prayer is a communication between the spirit of a man and his diety."

Rabbi Mordecai Levy of the Tri-City Jewish Center said, "We pray according to the dictates of our religious upbringing. To remove the theology is to reduce prayer to nothing. I am much opposed to the idea of prayers in schools. I would not want to reduce prayer to a cultural phenomenon."

To the argument that since religion is not

espoused in public schools, it is downplayed, he said, "True, we fail to teach religion to some of our people. But it is better than having a state-imposed religion."

Rev. Bruce H. Cooke, dean of Trinity Cathedral Episcopal Church in Davenport, said, "The use of prayers in the schools is really not effective, anyway.

"Effective prayer comes out of a community of people who think and believe largely alike," a situation, he said, that could not be attained in the classroom or with gatherings of persons of mixed religious beliefs.

On public invocations and benedictions, he said, "They're usually window dressings" and that the use of prayers at such occasions is "excessive."

"You seek to do God's work openly and through frankly announced religious channels rather than through an attempt to promulgate one's particular religion through government, social or economic channels," he said.

"You may apply your religious tenets to these areas, but, in my opinion, you do not seek to advance your own religious cause through them." He said such action was an imposition on persons of various beliefs.

Msgr. Sebastian Menke, president of St. Ambrose College, Davenport, said he favored the efforts of the pro-amendment forces.

He said, "It's a good effort if only to make people aware of the need of some kind of religious connection with life."

He added, however, that the attempt was probably futile, since any prayer introduced in the classrooms would be certain to offend certain people.

Another Catholic spokesman, Bishop Gerald O'Keefe, declined comment on the issue.

In addition to local opposition to the amendment, the Iowa Council of Churches' executive council voted on Oct. 8 to recommend defeat of the amendment.

In a letter to Schwengel, Rev. Paul King, executive secretary of the group, said, "The issues which surround the prayer amendment are easily misunderstood. It is not the case of whether or not prayer is allowed in our schools, but whether or not there should be state-written, state-directed or state-sponsored prayers."

Other statewide religious leaders are also opposed to the amendment.

Methodist Bishop James Thomas, Des Moines, said, "The first thing that bothers me about this is the fact that so many people feel if you are against the amendment, you are against prayer. That just isn't true."

He opposed the concept in which the "state would be able to dictate a prayer" and said even if such a prayer were formed it would be meaningless.

"It's impossible to develop any prayer that has any meaning if it is not natural, that is, if it does not spell out what it is talking about. I am very much against perfunctory prayer.

"There is no such thing as a nondenominational prayer. Prayer is not nondenominational. If you have developed a nondenominational prayer, you don't have a prayer."

And James Lair, executive minister of the Iowa Society of Christian Churches, Des Moines, in opposition to the amendment, said it was important to correctly interpret the Supreme Court's decision in 1963.

"The court never denied the right of personal prayers. They denied state prayers."

He said the whole issue of whether or not a "nondenominational" prayer could be constructed was "an academic question."

[From the Boston (Mass.) Globe, Nov. 4, 1971]

RELIGION OR PABLUM?

The US House is scheduled to vote next Monday on a proposed Constitutional amendment permitting "nondenominational" prayer ceremonies in public schools and other tax supported buildings. It is earnestly to be hoped that the House will refuse to approve this amendment.

Far from enhancing religious freedom, the amendment would diminish it and might ultimately lead to its abolition at the hands of the government. For who, if not governmental officials, will prescribe which forms of prayer are "nondenominational" and which are not?

Prayers designed to comply with a mandate that they be "nondenominational," as Harvard's noted Constitutional authority Paul Freund has observed, "would face the dilemma of being so bland as to be meaningless or so sectarian as to be divisive and repelling."

And if the dilemma is resolved by opting for blandness would not the result be, as one English cleric observed, a ceremony in which God is presented "as a trivial inconvenience that must be gotten out of the way before getting down to the real work of the day?"

It can be persuasively argued that the church and the home are the appropriate places in which to foster and practice religion. But if the church and the home fail in establishing piety among the people, what reason is there to believe that spoonsful of religious pablum concocted by public officials will succeed?

Indeed, the proposed amendment seems to say that religion is something to be forced down people's throats. Thus the amendment is plainly antithetical to democratic theory and practice.

Moreover, the amendment would establish a most dangerous precedent. If the religious freedom now protected by the First Amendment is thus watered down, next we may see assaults on such other Bill of Rights liberties as freedom of speech, press, and assembly; freedom from unreasonable search and seizure, and freedom from compulsory selfincrimination.

These and other Bill of Rights freedoms are America's most precious heritage. They should not be jeopardized by the adoption of anything at once so frivolous and so frightening as this proposed amendment.

WHO SHOULD PAY WHAT?

In both Congress and the Administration, UN nay sayers, still rankled by the vote on Taiwan, are fostering the dangerous notion that the United States is paying more than its fair share of UN costs. This is simply not so.

In absolute terms, it is true, the US is the largest contributor to the UN—$56 million in assessed fees and more than $200 million in voluntary contributions to such enterprises as the World Health Organization, the Educational, Scientific and Cultural Organization, U.N.I.C.E.F., refugee programs, the World Food Program, and so forth.

But is this more than its proper share? Hardly. The US gross national product of roughly 1 trillion is the largest of any nation in history, amounting to approximately 40 percent of the world GNP. On the basis, then, of ability to pay, the US should be paying approximately 40 percent of UN costs instead of the roughly 30 percent it now pays.

Measured in terms of its GNP, the US ranks, not first, but 12th in the list of 16 major donors. This is not the kind of generosity about which a justly proud Croesus amongst nations should boast—especially since the UN is a war-prone world's only peace keeping organization.

EDITORIAL POINTS

Those were innocent days, when the student who drank a few beers was considered devilish.

The best conservationists can say for oil wells off the local shore is that they wouldn't be as bad as World War III in the same neighborhood.

Maine votes to keep the income tax lest worse befall.

It's true that Massachusetts town government is not run by experts. On the other hand, no board of selectmen ever started a war in Asia.

The Postal Service really deserves credit. The junk mail always goes through.

The bomb test will prove that putting a match to a fuse will cause a big bang.

[From the Houston Chronicle, Oct. 22, 1971]

THE PRAYER AMENDMENT

The First Amendment to the U.S. Constitution starts: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Citing this amendment, the U.S. Supreme Court in 1963 banned Bible reading and organized prayers in public schools.

The Supreme Court ruling set off controversy; echoes are still being heard in Congress. The echoes are in the form of a proposed amendment to the constitution.

The amendment is potentially dangerous. While the amendment is proposed as a means to allow prayer in the classroom, it opens the possibility of federal intervention in the field of religion because the amendment poses so many questions.

The proposed amendment reads: "Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

A prayer amendment in one form or another has been pending in Congress since shortly after the Supreme Court ruling. In 1964, a House committee held hearings on an amendment and for six weeks listened as church officials, educators, legal scholars and representatives of private organizations spoke for or against the amendment. At the end, the committee was unable to agree and put the amendment aside. In 1966, the Senate turned back a prayer amendment proposed by Sen. Everett Dirksen.

The amendment now pending was tied up in the House Judiciary Committee. A petition by 218 House members forced the issue to the floor of the House, where it is expected to come to a vote next month. Not all the representatives who signed the petition necessarily favor its passage; some acted believing the amendment deserves debate. The petition was the work of Mrs. Ben Ruhlin of Cuyahoga, Ohio, and her Prayer Campaign Committee.

Opposing the prayer amendment are a group of church leaders, including leaders of the American Baptist Convention, the National Baptist Convention, the Southern Baptist Convention, the executive council of the Episcopal Church, the National Council of Churches of Christ, the American Jewish Congress, the United Presbyterian Church, the United Methodist Church, the Friends Committee on National Legislation, the Church of the Brethren and the Unitarian Universalist Assn.

The problem with the amendment is that it raises legal questions which would require further intrusion upon religious life to resolve. The principal question is: What is a nondenominational prayer? Religious leaders point out that major religious faiths have never been able to achieve a consensus on a definition of nondenominationalism.

The amendment raises the prospect of courts ruling that it is all right to use this word but not that word in a prayer; of a court approving a certain prayer and all of school children having to say that prayer because, according to the court, it is nondenominational. The parent would have no control over what prayer his child is taught to say in school. This, in truth, would be government control of religion, the very

thing the First Amendment was wisely written to prohibit.

There are other questions: Could only nondenominational prayers be prayed in a denominational or public institution which receives public funds? Who decides whether an assembly is lawful? Who writes the prayers the school children are to say? Who monitors the prayers to guarantee they are nondenominational?

We must avoid imposition of any religion by the state. If Congress wishes to go on record, perhaps by resolution, on behalf of the right of people to pray, fine. We believe the right to pray is adequately protected now by the First Amendment as written when this nation was founded. No tampering is required.

[From the Austin American, Oct. 15, 1971]

PUBLIC PIETY, PRIVATE BELIEF

By virtue of a discharge petition signed by 218 members of the House of Representatives, a proposed constitutional amendment to permit voluntary, nondenominational prayers in the public schools and in public buildings has been pried out of the House Judiciary Committee, where it has languished for the past eight years.

It now goes before the House for a vote, probably sometime in early November. The congressmen have from now until then to think seriously about the matter—even, if they are so inclined, to pray over it.

They might reflect that it is almost a law of history that a nation's outward piety increases in inverse proportion to its inward convictions.

[From the Wichita (Kans.) Eagle, Oct 13, 1971]

CHURCH OF CHRIST RESISTS RETURN OF SCHOOL PRAYERS

(By Barry Paris)

The 42-member executive council of the United Church of Christ voted unanimously Tuesday in Wichita to oppose the bill supporting "prescribed prayer" in public schools now before the U.S. House of Representatives.

In doing so the 2-million-member denomination becomes the first national religious body to formally oppose the proposed constitutional amendment (House Joint Resolution 191), expected to come before the House in November. The amendment is an attempt to override Supreme Court decisions declaring prayer reading in public schools unconstitutional.

The resolution called attention to the fact that the Supreme Court has affirmed the freedom of schools to include the study of religion in their curricula.

The proposed amendment reads, "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building . . . to participate in nondenominational prayer."

The UCC resolution based its opposition to the bill on the need for "scrupulous fairness" to people of all religious convictions. The responsibility for religious education and worship, said the council, lies primarily at home and in the church.

"(The UCC) strongly supports efforts of schools to increase and improve the teaching of moral values and the appreciation of the role of religion in the development of our heritage," said the executive council statement.

The proposed constitutional amendment was bottled up in the House Judiciary Committee from 1963 until early this month, when proponents obtained enough signatures to bring it to the floor of the House.

The UCC executive council, which conducts the business of the United Church of Christ between biennial meetings of its General Synod, is holding its annual fall meeting in Wichita this week.

Later Tuesday, the council appointed a task force on the status of women in the church and society and authorized $50,000 for its use in 1972.

Appointed cochairwoman of the task force were Mrs. Louise M. Wallace, Shawnee Mission, Kan., and Rev. Tilda A. Norberg, Staten Island, N.Y.

[From the Kansas City (Mo.) Star, Oct. 20, 1971]

DANFORTH QUESTIONS SCHOOL PRAYERS' VALUE

John C. Danforth, Missouri attorney general and an ordained Episcopal priest, said last night that nondenominational prayers in public schools are of questionable value at best.

The 35-year-old attorney general told about 250 persons at an interfaith dinner at the Country Club Christian Church that nondenominational prayer must be acceptable to everyone. It must receive the approval of Catholics, Protestants and Jews, practitioners of ethical science, agnostics and even atheists, he said.

Danforth discussed an amendment before Congress, which, if adopted, would read: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

"The point of this amendment," he said, "would be to permit what is known as nondenominational prayers in public schools. The background of this proposed amendment is that in 1963 and 1964 the Supreme Court interpreted the first amendment as prohibiting prayers, even nondenominational which could be agreed upon by all religions, from being offered as part of the program in public schools."

Danforth said support of the amendment amounts to an admission of failure by church and parents in providing children with a sufficient religious background.

If the amendment passes the House of Representatives, he said, it would be well for thoughtful churchmen to consider whether school prayer would be of any value.

"It is my view that the kind of prayer which would be offered in public school is devoid of theological content and does not further the religious development of children," he said. "I believe such prayers tend to cheapen rather than enhance our religious heritage.

"Let us then begin to take our own responsibilities seriously as custodians of the faith. Let us not be willing to yield this responsibility to the state."

[From the Jewish Press, Omaha, Neb., Oct. 15, 1971]

SIDELINES

(By Mickey Gerelick)

When the astronauts landed on the moon they described their feat as "one giant step forward for mankind." Those who understand the space program (I don't) have convinced me it's true.

I'm equally convinced that the same government which sent men to the moon may be on the verge of taking "one giant step backward," in another area. And this area I do understand.

A Discharge Petition signed by 218 members of the House of Representatives will bring to the floor of Congress a proposal for a Constitutional Amendment to reverse the U.S. Supreme Court decision of 1963 banning prayer in public schools.

The proposal has been bottled up for nearly 10 years in the House Judiciary Committee. As a result of the Discharge Petition, however, it may come up for a vote in the House of Representatives as early as November 8.

They weren't teaching about moon landings when I was in High School (yes children, they did have high schools way back then.) But they were teaching about American government, and I was a pretty good student.

I know that enactment of a Constitutional Amendment requires a two-third vote in the House and Senate and ratification by the legislatures of three-fourths of the states. I also know that if the proposed prayer amendment becomes part of the Constitution, the Bill of Rights will be amended for the first time in our nation's history.

I'm not opposed to change where change is needed; but for my money the Bill of Rights is one of the soundest documents this country has produced, and tampering with it could set a dangerous precedent of jeopardizing all of our individual freedoms. That's a pretty big step backwards.

The whole business would be funny, if it weren't so frightening.

The amendment (H.J. Resolution 191) would authorize "nondenominational" prayer in public buildings, including public schools.

To the best of my knowledge, the major faiths have never been able to agree on a definition of "prayer" much less a definition of "nondenominational prayer."

Who then will decide the nature of these prayers? Congress or (God forbid) the local school boards? It's madness to suggest that any governmental body has the right or wisdom to determine where or when or what people should pray.

As it stands, the Bill of Rights protects the rights of any child to engage voluntarily in his own prayers whenever and wherever he chooses. (Even in school buildings; but without government supervision.) It also guarantees the rights of the atheist child not to pray wherever and whenever he chooses.

I'll go along with the wisdom of the Supreme Court decisions of 1962 and 1963 which properly prohibited government intrusion into the religious activities of school children. I strongly oppose the proposed amendment which, in its "nondenominationalism" would serve the needs of no one and which could destroy the protection offered by "separation of church and state."

I really believe in the American system of government—even when it produces such threats as the proposed prayer amendment. Proponents of the amendment can get it to the floor of Congress; but the congressmen who do the voting can be influenced by their constituents who put them in Congress. That's why I'm writing to my congressman today asking his support to defeat the prayer amendment.

For those of you who share my views—and my congressman—the address is: John Y. McCollister, Congressman, Second District Nebraska, 511 Cannon Office Building, Washington, D.C. 20515.

FALLACIES AND FALSEHOODS OF THE WYLIE AMENDMENT

A constitutional amendment which will radically alter the relationship between church and state in America is now under congressional consideration. The amendment, sponsored by Rep. Chalmers P. Wylie (R-Ohio), reads:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." (H.J. Res. 191)

Despite the claims of its backers, the effect of the Wylie amendment will not be the "putting of God back into the public schools" but the injecting of the state into religion and the involving and entangling of the state with religion, with consequent grave damage to government and to religion, and to the certain destruction of church-state separation in America.

SHALL THE STATE INVOLVE ITSELF IN RELIGION AND IN RELIGIOUS CONTROVERSY?

The question posed to Congress by the so-called "prayer amendment" has nothing to do with individual, personal and voluntary prayer—i.e. with whether a child can bow his head and pray in school. This right has never been questioned by any responsible individual or any court in America. The question before Congress is whether prayer meetings can be held under the auspices or supervision of the state. The intent of the Wylie amendment is to permit officially approved and supervised, governmentally-sponsored corporate worship services in the public schools and elsewhere. Such corporate worship services will be tax-supported, in a large measure, since they will be conducted in tax-supported facilities and will usually involve some kind of supervision by teachers or others whose pay is drawn from the public treasury. One of the primary functions of the church is to lead and sponsor corporate worship. Shall the state now usurp this function? Shall the state, through its various agencies and officials, organize, supervise and subsidize regular and continuing programs of corporate worship in the public schools and other public places? Shall the government be empowered to officially authorize and approve some forms of corporate worship as "nondenominational" and officially disapprove and refuse to permit other forms of corporate worship as "denominational"? Shall religion now cease to be a private, personal and individual matter in this country, into which the state may not intrude itself or involve itself? Shall religion now become a function of the state, with some kinds of religion promoted and other kinds of religion prohibited in the public schools and all other public places in America? These are the questions which the Wylie amendment poses to every Congressman. It is not too much to say that the future destiny of this nation and the peace and harmony of every community tremble in the balance as each congressman considers how he shall vote on this matter.

There are a number of misconceptions and falsehoods underlying this amendment. We list some of these falsehoods below.

I. *The falsehood that prayer is presently forbidden in public facilities and that we must amend our constitution to "authorize" prayer.* Voluntary prayer is already permissible in all public places. The courts have never made any ruling approving or disapproving, *per se*, of any prayer or worship anywhere. The courts have only ruled against governmental sponsorship of, subsidy of, and involvement in prayer and worship services. If the Wylie amendment is added to the Constitution it will make it necessary for the courts to rule again and again on the very character and contents of worship itself, as to whether it is denominational and therefore prohibited, or nondenominational and therefore permitted in public buildings.

II. *The falsehood that the Wylie amendment is intended to permit "voluntary prayer" in public places.* The Wylie amendment doesn't even mention "voluntary prayer." It speaks only of "nondenominational prayer." Far from allowing "voluntary prayer," it will actually forbid truly voluntary prayer, for voluntary prayer necessarily reflects the peculiar faith and denominational orientation of each individual, and the Wylie amendment forbids all but "nondenominational prayer." A careful reading of the proposed amendment and scrutiny of the objectives of those who are pushing it reveal that it isn't voluntary prayer at all that they desire. The *participation* in the worship services they envision setting up in the public schools and elsewhere may be voluntary, because no person can actually be compelled to participate in worship. But the worship services themselves will be involuntary, from start to finish. The students obviously cannot pray any prayer they want to, because they might pray a "denominational prayer." So they will have to be told what to pray. The worship services resulting from the passage of this amendment will be held in buildings built and supported involuntarily; will be supervised by teachers and administrators whose salaries are paid involuntarily; will be patronized by students who are brought together at that particular spot involuntarily by the compulsory attendance law of the public schools.

III. *The falsehood that the amendment concerns itself only with the setting up of guidelines for a kind of worship which will be permitted in the public schools of America.* Even a casual glance at the amendment shows that it has far broader implications than prescribing and proscribing worship services in the public schools. The amendment doesn't even mention "public schools," but embraces within its scope worship in ALL public buildings throughout this nation. The words "lawfully assembled" in the proposed amendment should give pause to every thoughtful citizen. This yoking of state-approved "nondenominational" worship with the qualification that it be conducted in a "lawful assembly" has ominous overtones to those who believe that there cannot be any such thing as "unlawful assembly" for those who come together to worship God. Of course, the amendment applies only to persons "lawfully assembled in any public building." But what is a "public building?" The amendment goes on to define it as one "which is supposed in whole or in part through the expenditure of public funds." Are church buildings "public buildings?" They are so classified in the building codes and safety and fire regulations of most cities. They certainly are supported in part by public funds in that they are given tax exemptions and receive free public services, such as fire and police protection, which are essential to their functions. The Wylie amendment places in dire jeopardy the freedom and independence of all churches in America since it implies that only "nondenominational" worship may lawfully be offered in public buildings in this country, and church buildings are "public buildings" under the definition given in the amendment.

IV. *The falsehood that the amendment will only affect the kind of worship which will be allowed in public places.* It affects a great deal more than that. If worship of a certain state-approved "nondenominational" type is to be allowed in public schools and other public institutions, may not religious teachings of a certain state-approved "nondenominational" type also be carried on them? After all, religious worship is a kind of religious teaching. And if the public schools are now to become houses of worship and agencies for teaching a newly-established "nondenominational" state religion, tax support cannot be withheld from parochial schools. A larger part of the thrust for the passage of this dangerous change in the First Amendment of our Constitution has come from those who see the prospect of billions of dollars in tax money being made available to their church and its schools. Separation of church and state will cease to exist in any meaningful sense if this amendment is passed. All the court decisions, which have been based on the First Amendment since the founding of this nation will be undermined, and many, if not most, will be invalidated.

V. *The falsehood that there is any such thing as a "nondenominational prayer."* The stipulation that prayer be "nondenominational" is as ridiculous as would be a stipulation that prayer be non-religious. Secularized prayer isn't really prayer. To many it is sacrilege. To every church and religion its own prayers are nondenominational, and the prayers of all other groups are denominational. A prayer in the name of Jesus Christ would be forbidden in any public building by this amendment. There are many churches, such as the Quakers and the Churches of Christ, which do not believe in ceremonial prayers or a liturgy and which have no set or written prayers—no prayers at all which are formulated by one person, to be repeated in unison by others. Yet, this is the kind of prayer generally offered in the public schools. There are a number of churches which teach that it is sinful for unbelievers to conduct worship services. This violation of the faith of many will be authorized by the Constitution and will become a very prevalent practice if the Wylie amendment passes. It is obvious that the Wylie amendment will pave the way for deistic (i.e. prayers not offered in the name of Christ), liturgical, and therefore very much denominational, prayers in the public schools and elsewhere, as well as prayers which may be characteristic of some denominations but which are abhorrent and contrary to the faith of others.

VI. *The falsehood that some of the problems encountered in connection with our youth today, and the general breakdown of morals within our society, would be solved or improved if we had some kind of a little "nondenominational prayer" each day in the public schools.* This is like putting a band-aid on a cancer and expecting it to do some good. The causes for the moral decadence of our society lie deep indeed. None of those causes would be in the least affected by plastering a tiny bit of state-approved religious ceremonialism on the public schools.

VII. *The falsehood that the Wylie amendment has anything at all to do with true prayer or worship to God or that the promoters of this change in the basic law of our land are primarily interested in prayer as an end in itself.* All the evidence suggests that the sponsors of the Wylie amendment are interested in prayer as a means of achieving certain social and political purposes rather than in prayer as the intimate and personal communication of the heart and soul with God. It should greatly concern those Congressmen who are Christians that Jesus Christ condemned ostentatious, hypocritical and repetitious prayer and commanded his followers to pray at home, in privacy, behind closed doors (Matt. 6:6–7). Is the sort of prayer envisioned by the Wylie amendment the sort that Jesus condemned or the sort that He commended? To us, the answer is obvious.

James Madison said, "It is proper to take alarm at the first experiment on our liberties." We, therefore, plead with those who are entrusted with the guardianship of the rights and liberties of this great free nation—Resist this drive to change the First Amendment, knowing that if this current effort is successful, it will be but the beginning of a series of furious assaults upon our Bill of Rights and the precious heritage of freedom and justice which it protects.

DO NOT BE DECEIVED BY A "PRAYER" AMENDMENT

"Don't "booby-trap" religious freedom by an innocent-sounding "prayer" amendment that is in fact a "time-bomb" against religion.

Now is the time to stand up and fight for freedom.

What did the Supreme Court say..?... about prayer in public schools!

State composed and governmentally required prayers are a violation of the Constitution.

"In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Governmentally sponsored or required devotions, such as Bible reading and recitation of the Lord's Prayer are unconstitutional.

The Bible and religion may be taught in public schools when presented objectively as part of the regular program of education.

The Supreme Court did not do this:

The Court did not prohibit school children from praying in school. It prohibited government from writing their prayers and sponsoring their devotions.

The Court did not put God out of the schools or out of public life in America. God is greater than either a Supreme Court decision or a constitutional amendment. He is not moved about like a chessman.

The Court did not express hostility to religion. "Nothing, of course, could be more wrong," the Court declared.

The Court did not establish a religion of secularism. It specifically said, "The state may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion."

The Court did not eliminate all religious expressions from public life. It said that the Declaration of Independence, patriotic hymns, and religious expressions in patriotic or ceremonial occasions are not prohibited by the ruling.

Take a look at the innocent-sounding but insidious nondenominational prayer amendment:

The proposed amendment: "Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." (H.J. Res. 191)

This amendment would not be merely an addition to the First Amendment, it would be a serious alteration of the basic constitutional provision for "no establishment" and "free exercise" of religion.

The amendment prescribes the kind of prayer the people in public buildings have a right to pray—nondenominational prayers.

The amendment by indirection authorizes government (a school board, principal, teacher, or some other official) to determine what is "nondenominational" prayer. This makes government a judge of theology and of prayer.

The amendment restricts the rights of the people it is supposed to protect. It could prescribe "nondenominational prayer" for hospitals, homes for the aged, other buildings supported in whole or in part through public funds, or even the chaplaincy.

The amendment introduces religion as a divisive factor into American life.

The amendment authorizes a perverted form of nebulous religion—nondenominational prayer.

Help preserve religious freedom, defeat the nondenominational prayer amendment.

Baptist Joint Committee on Public Affairs, 200 Maryland Ave., N.E., Washington, D.C. 20002.

PREMISES OF THE SUPREME COURT RESTRAINING GOVERNMENT REGARDING DEVIATIONS

(By C. Emanuel Carlson)

In June 1962, the Supreme Court of the United States set aside actions by the New York Board of Regents, and by a district school board, because these actions prescribed a religious activity, namely the saying of a prayer. At that time the Court rested its case on analysis without citing a single case. The decision resulted in unprecedented discussion and misunderstanding.

In handing down its opinion in the Maryland and the Pennsylvania cases, the Court took the opposite approach. This decision in June, 1963, contains a full review of the major decisions that the Court has handed down in interpreting the First Amendment. The Court's review is clearly written, and readable by most anyone. It should be carefully studied by all who prepare to discuss the issues.

This pamphlet attempts to outline the premises which are involved. It is prepared in order to facilitate study and discussion of the Court's actual decision.

1. The Court proceeds on the premise that present American law is rooted in the principles of the Constitution and not in the practices of the colonial period of our history. Thus the Court candidly admits that the colonial period did not carefully practice religious liberty, and it makes no attempt to fit these practices into its constitutional interpretations. It simply says:

It is true that this liberty frequently was not realized by the colonists, but this is readily accountable to their close ties to the Mother Country. However, the views of Madison and Jefferson, preceded by Roger Williams, came to be incorporated not only in the Federal Constitution but likewise in those of most of our States. (Pages 10–11)

Since many people draw their illustrative materials for church-state discussions from the colonial period, it becomes necessary to place dates after all actions or practices and to screen out those that precede 1791, when the first ten amendments became effective.

2. The Court accepts religious liberty as being as basic to American civic life as religion itself. After reviewing some of the evidences that the American people have been and are "a religious people," the Court said:

This is not to say, however, that religion has been so identified with our history and government that religious freedom is not likewise as strongly imbedded in our public and private life. (Page 10)

To state the scope and purpose of the First Amendment, the Court chose, among others, the words of Justice Jackson who while dissenting to the *Everson* case yet agreed that

"There is no answer to the proposition . . . that the effect of the religious freedom Amendment to our Constitution was to take every form of propagation of religion out of the realm of things which could directly or indirectly be made public business and thereby be supported in whole or in part at taxpayers' expense. . . . This freedom was first in the Bill of Rights because it was first in the forefathers' minds; it was set forth in absolute terms, and its strength is its rigidity." (Page 13)

Lest there be any misunderstanding the Court added the words of Justice Rutledge, who was joined in another Everson statement by Justices Frankfurter, Jackson, and Burton:

"The (First) Amendment's purpose was not to strike merely at the official establishment of a single sect, creed or religion, outlawing only a formal relation such as had prevailed in England and some of the colonies. Necessarily it was to uproot all such relationships. But the object was broader than separating church and state in this narrow sense. It was to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion." (Page 13)

This conclusion the Court asserted "has been firmly maintained ever since that time," citing a number of other cases in its support.

3. The Court looks upon the two parts of the First Amendment as supporting each other in the protection of this freedom:

The interrelationship of the Establishment and the Free-Exercise Clauses was first touched upon by Mr. Justice Roberts for the Court in *Cantwell* v. *Connecticut* . . . where it was said that their "inhibition of legislation" had "a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts—freedom to believe and freedom to act." (Page 14)

Both aspects of the First Amendment constitute reasons for a wholesome neutrality on the part of the state in its contacts with groups of religious believers and non-believers. Thus,

The wholesome "neutrality" of which this Court's cases speak thus stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenets of one or all orthodoxies. This the Establishment Clause prohibits. (Page 18)

But also this:

And a further reason for neutrality is found in the Free Exercise Clause, which recognizes the value of religious training, teaching and observance and, more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the state. This the Free Exercise Clause guarantees. (Pages 18–19) On these points the Court also approved the language of Justice Rutledge in the Everson case, as follows:

"Our constitutional policy . . . (D)oes not deny the value or necessity for religious training, teaching or observance. Rather it secures their free exercise. But to that end it does deny that the state can undertake or sustain them in any form or degree. For this reason the sphere of religious activity, as distinguished from the secular intellectual liberties, has been given the two-fold protection and as the state cannot forbid, neither can it perform or aid in performing the religious function. The dual prohibition makes that function altogether private." (Page 15).

In this discussion it should be noted that references are made to the free exercise of religion which is accorded legislators in their procedures, courts in their opening, and military personnel in service. Neither cases nor precedents are presented by the Court regarding free exercise available for teachers or pupils who wish to exercise their religion in a public school without any legal prescription or directive. That such freedom exists cannot be doubted, but their nature and scope have not been determined by constitutional interpretation. Perhaps they neither can be nor should be.

4. Aware that there are 83 separate religious bodies each exceeding 50,000 members, the Court holds that all are equal before the law:

Almost a hundred years ago in Minor v. Board of Education of Cincinnati, Judge Alphonzo Taft, father of the revered Chief Justice, in an unpublished opinion stated the ideal of our people as to religious freedom as one of "absolute equality before the law of all religious opinions and sects . . ."

"The government is neutral, and, while protecting all, it prefers none, and it disparages none." (Page 11)

This neutrality is directly applicable to those forms of religion which are antagonistic to the traditional forms. Hence:

It is insisted that unless these religious exercises are permitted a "religion of secularism" is established in the schools. We agree of course that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe." Zorach v. Clauson . . . (Pages 21–22)

However, from this statement it does not appear that all ideas, attitudes, or social values are to be included under the word "religion," so as to prevent the teaching of the American heritage of values in the schools.

5. The Court holds that the principles which restrain governments from regulating or prescribing devotions also restrain them from other forms of support or hindrance to religion.

. . . this Court has rejected unequivocally the contention that the establishment clause forbids only governmental preference of one

religion over another. Almost 20 years ago in *Everson*, . . . the Court said that "[n] either a state nor the Federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another." (Pages 12–13)

Then from the *Zorach* case in the words of Justice Douglas:

"There cannot be the slightest doubt that the First Amendment reflects the philosophy that Church and State should be separated. And so far as interference with the 'free exercise' of religion and an 'establishment' of religion are concerned, the separation must be complete and unequivocal. The First Amendment within the scope of its coverage permits no exception; the prohibition is absolute. The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. That is the common sense of the matter." (Page 16)

These comprehensive positions have been so often stated in the same or very similar words that there is every reason to believe the Court really means this as its position in the whole array of church-state issues that continue to plague legislatures and state or district courts.

6. The Court is clearly committed to the Fourteenth Amendment as the application to the states of the First Amendment's protection of the religious freedom of the American people:

First, this Court has decisively settled that the First Amendment's mandate that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" has been made wholly applicable to the states by the Fourteenth Amendment. Twenty-three years ago in *Cantwell* v. *Connecticut*, . . . this Court, through Mr. Justice Roberts, said:

"The fundamental concept of liberty embodied in that (Fourteenth) Amendment embraces the liberties guaranteed by the First Amendment. The First Amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws. . . ."

In a series of cases since Cantwell the Court has repeatedly reaffirmed that doctrine, and we do so now. . . . (Page 12)

While some aspects of federal-state relationships will of necessity be controversial, only nationwide principles of religious liberty can protect this nation from such religious divisions as have afflicted many other countries. It is hard to imagine responsible advocacy of public school systems in which religious emphases variously represent Mormons, Roman Catholics, Baptists, or Protestants. Hence the Torcaso decision said:

"We repeat and again reaffirm that neither a State nor the Federal government can constitutionally force a person to 'profess a belief or disbelief in any religion.' Neither can constitutionally pass laws or impose requirements which aid all religions as against nonbelievers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs." (Page 17)

Regarding the New York Board of Regents' proposed state prayer the Court said in the Engel v. Vitale decision:

". . . it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by the government." (Page 17)

Personal religious freedom is to be respected by state as well as by federal government:

The Free Exercise Clause, likewise considered many times here, withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure religious liberty in the individual by prohibiting any invasions thereof by civil authority. (Page 19)

7. The Court holds that all types of temporal knowledge can be given under public auspices leaving religious instructional goals to be reached by other agencies. From Emerson v. Board of Education the Court quotes: ". . . public schools are organized on the premise that secular education can be isolated from all religious teaching so that the school can inculcate all needed temporal knowledge and also maintain a strict and lofty neutrality as to religion. The assumption is that after the individual has been instructed in worldly wisdom he will be better fitted to choose his religion." (Page 15)

Also the Court asserts that governments can test the propriety of their involvement in his way:

The test may be stated as follows: What are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. (Page 19)

The effort to gain temporal knowledge can include the objective study of religious materials:

In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment. (Page 22)

Thus it is not God nor even information about God that is excluded from the public school. Rather it is the religious ceremony by public authority that is excluded, and also the pursuit of institutional religious goals within the public schools.

8. The violation of the "no establishment" clause of the First Amendment is not affected by the presence or absence of either coercive force or required attendance. From the Engel v. Vitale decision:

"Although these two clauses may in certain instances overlap, they forbid two quite different kinds of governmental encroachment upon religious freedom. The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not." (Pages 17–18)

The Court's conclusion in these cases was based on the no-establishment clause:

The conclusion follows that in both cases the laws require religious exercises and such exercises are being conducted in direct violation of the rights of the appellees and petitioners. Nor are these required exercises mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause. (Page 21)

9. When the freedoms of people are involved the place of watchfulness is at the beginning of violations rather than at some more gross oppression:

Further, it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, "it is proper to take alarm at the first experiment on our liberties." (Page 21)

10. Under the American Constitution the rights of the majority do not include the right to use state powers or the machinery of government for the attainment of religious ends:

While the Free Exercise Clause clearly prohibits the use of state action to deny the rights of free exercise to *anyone*, it has never meant that a majority could use the machinery of the State to practice its beliefs. Such a contention was effectively answered by Mr. Justice Jackson for the Court in *West Virginia Board of Education* v. *Barnette* (1943):

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to . . . freedom of worship . . . and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections." (Pages 22–23)

Conclusion. In view of these principles the Court concluded:

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment. Applying that rule to the facts of these cases, we affirm the judgment in No. 142. In No. 119, the judgment is reversed and the cause remanded to the Maryland Court of Appeals for further proceedings consistent with this opinion. (Page 23)

Questions and Answers on the Supreme Court and Public School Religion

(By C. Emanuel Carlson)

On June 17, 1963, the United States Supreme Court, by an 8–1 decision, ruled that required Bible reading and recitation of the Lord's Prayer in public schools violate the First Amendment of the Constitution. The Court's decision does not answer all of the questions concerning the relation of religion to the public schools, but it does clearly answer a number of questions that are being asked about it.

The Court's opinion is not a lengthy document, only 22 pages, is very readable and can be understood by anyone. A careful reading of the document would clear up much misinformation about it.

Q.: What is the real point of the Supreme Court's decision?

Answer: The point is that all governments, federal, state, and local, under the Constitution of the United States lack the authority or power to involve themselves in the religious teachings and practices of the American people. Accordingly, the Court ruled that state legislatures and school boards do not have the authority to require religious exercises in the schools.

Q.: Is the Bible thereby exluded from use in the schools?

A.: The answer is clearly "No." It is the requirement of a religious use of the Bible which is ruled out. The Court's opinion expressly says that the Bible may be studied objectively for all the information it can yield.

Q.: Can one say that the Court has excluded God from the public schools and from American life?

A.: The answer to this question does not lie in the Constitution, in the Supreme Court, nor in state law or school board rules. It lies in the person's theology who asks the question. The person who says that his God has been excluded from the schools by a Court decision thereby professes a very small God.

The God who brought the Hebrew people over the Red Sea, and the God who raised Jesus Christ from the dead is not subject to government actions of any kind. This makes religious liberty a necessity.

Q.: May pupils pray while they are in school?

A.: The Court's decision places great emphasis on the person's right to free exercise of religion. If a pupil or a teacher wants to pray there is nothing in this decision that prevents the pupils from even agreeing to pray together, but they must not be ordered to pray. How far voluntary religious expressions can go in the public schools has not been stated in any decisions to date.

Q.: Will this decision tend to "secularize" the public schools and the American nation?

A.: The American public school has always been a secular institution. So also has the American "nation" ever since church and state were separated at the beginning of our national history. Our Constitution holds all powers of government to be secular powers. Compare the powers of Caesar Augustus with the kind of power displayed at Pentecost to get the difference. "Secularization of the nation" could be debated in a country with some state religion or a state church but hardly in the United States of America.

Many other nations have demonstrated that the way to "secularize the minds of the people" is to tell them that God is a puppet under government regulation. From this viewpoint America is and will be as "secular" as the influences people put into the democratic political process. This is a challenge to the churches.

Q.: Is this new Court decision a radical departure from American practice?

A.: American practices on this matter vary widely. Many states and numerous localities have forbidden for decades regular religious exercises in their schools on the same grounds as those announced by the Court.

Q.: Does the Court's ruling mean that our schools must promote "secularism"?

A.: No. The Supreme Court specifically said that neither "secularism" nor any form of religion could be promoted by school authority.

Q.: Does the Bible reading and prayer ruling mean that the Supreme Court is usurping or undermining the position of the local school board?

A.: The Supreme Court has the responsibility to define the meaning of the Constitution and the rights of all American citizens. The definition of these rights may at times conflict with given actions of the federal, state and local governments and also with given actions of individuals or private organizations. The rights of the people are rooted in the Constitution. The Supreme Court in limiting illegal and unconstitutional actions is exercising a necessary and proper power that is a cornerstone of the American constitutional system.

Q.: How does it happen that these matters come up now when these practices have gone on throughout our history?

A.: This is a complicated inquiry. Our history is affected by many things. The new mobility of population brings our constitutional principles to new tests. Also "religious exercises" no longer pass as simply "heritage." They have come to be more meaningful than "tradition," and are recognized as "religion." A new wave of litigation began in the 1940's with cases involving Jehovah's Witnesses, bus transportation, and released-time instruction. Litigation in the field became popular and frequent. Many states had discarded "public school religion" earlier, but now the "cold war" seems to make it more important. Furthermore, the "institutionalism" of our age has made Americans more aware of the need for protecting personal freedom, especially the inner man, from government regulation. Those who call for "less government" should be first to make serious efforts to exclude government from at least this "citadel".

Q.: Where is the school child to receive the values of group religious exercise?

A.: These values can and should be instilled in the home, in the church and in other voluntary societies. Indeed, only when affirmations of faith are purely voluntary are they useful in influencing others.

Q.: Does this sort of decision reflect a growing atheism in the United States?

A.: Not at all. From all careful studies, it is clear that there is much less atheism in America today than in the 1920's. Also, such atheism as exists is much less militant than it once was.

Q.: Will this decision cause an increase in parochial school attendance?

A.: Many forces are at work that will determine the future size of America's parochial schools. This opinion would be minor if it has any influence in this regard. Indeed, the opinion may be a force against an increase in parochial schools, for in its argument the Court implies that it would not tolerate direct federal aids to such schools.

Q: Legislatures as well as courts open with some kind of prayer. Why not the public schools?

A.: The Court pointed to congressional prayer as being not a legal requirement but an instance of free exercise of religion. They are free to do it if they wish. The same is said of the court sessions. The Court made no ruling on the freedom of school classes to do it if they so desire.

Q.: If there are no state laws on the subject are the schools free to do as they please in the matter of devotions?

A.: School boards, superintendents, principals, and in some measure also the teachers, operate the schools by the authority of the law. If any one attempts to use his legal authority so as to either advance or hinder the free exercise of religion this would violate the Court's ruling. The "use of law" includes much more than state legislation on this subject.

Q.: If a teacher has a class in which none of the pupils and none of their parents object to Bible reading and the Lord's Prayer, does the decision rule out the teacher's voluntary practices?

A.: The extent to which a teacher represents the legal power of the state is not now clear. This means that the teacher's initiative in the matter could well be challenged in future cases. It is not handled in this decision.

Q.: Is this carrying the principle of separation of church and state too far?

A.: The Court said that separation of church and state need not be applied to every aspect of their relationships, but in two matters this separation is "absolute". These two are: (1) no laws pertaining to an establishment of religion, and (2) no restraints on the free exercise of religion.

This leaves churches free to register deeds in a public office, to accept police protection, the use of public streets, fire departments and the like. But (1) and (2) are out. Is this "too far?" Some, especially those who want some help from government powers say "this is too far." I would expect Baptists to say, "No, it not too far."

Q.: What effect does this have on non-government schools that receive government aid?

A.: I do not believe the Court as a whole has spoken on this question. Some members of the Court have ideas on it. When this comes sharply under consideration financial aid could easily be defined as representing the use of law and therefore an "establishment of religion". This is interesting country for future exploration.

Q.: Could this precedent be used to abolish the chaplaincy from the Armed Services?

A.: The Court said the chaplaincy is there to protect the free exercise of religion by people who are ordered to certain locations, and it is described as "voluntary." I can foresee possible situations where the chaplaincy programs are more than this and become an "establishment of religion," in which case they would be vulnerable.

Q.: Does this decision announce to the world that we are renouncing our dependence upon God?

A.: "Dependence upon God" is experience by "the humble and contrite heart". This experience is not transmitted by law or by force of government authority. Rather, this decision announces that our governments do not pretend to such competence.

Q.: Does separation of church and state mean the separation of religion from government?

A.: The decision of the Court states clearly the right of public leaders to "free exercise of religion." The President, congressmen, judges and all may pray, read devotionals, and the rest. However, they may not use their public authority to inflict religious ideas or practice on the people. It is high time to take the politician out of the role of spiritual leadership that aims at political goals.

Q.: What effect does this decision have on federal aid to parochial schools?

A.: The decision so restrains governments from involvement in religious instruction and observances that it must be discouraging to the advocates of parochial aid from public funds. If this decision is widely studied and supported the American people of all religious traditions will understand more clearly the basis of American freedom.

Q.: How do public schools now properly relate themselves to religion?

A.: Several things mentioned:

(a) Objective study of the Bible, of poetry, of music, art, etc., is proper as curricular content in the subject where it belongs, that is in history, in literature, in music class, et al.;

(b) the public school may plan to transmit our cultural heritage but not to make believe that this is "religion;"

(c) the customs, morals and ideals of American life can be taught in the schools, but not as "religion;"

(d) respect for the convictions and the freedoms of the children as well as the teachers should be cultivated in the school;

(e) care should be exercise so no element of coercion nor the use of state power is brought to bear for religious purposes.

IS A CONSTITUTIONAL AMENDMENT NECESSARY?
THE VALUE OF THE FIRST AMENDMENT

Americans have as much or more religious liberty, at law, than any people on earth. For religious purposes we can preach, publish and distribute literature, educate our people in all sorts of schools, travel and assemble, own and use property, raise and spend funds, and create associations of those like-minded. The list could be longer. These freedoms are available to individuals and to voluntary groups. *True religion does not languish in the United States for want of legal freedom.*

This wide freedom exists in part because of the religious clauses of the First Amendment. Of course, no constitution can guarantee freedom, if freedom does not live in the minds of the people. Freedom is ideas, not words on paper. But, the First Amendment has been a stout bulwark against the restriction of liberty, and its operation has encouraged the ideas of freedom. A reading of the numerous Jehovah's Witnesses cases will demonstrate how effective the Amendment has been in our generation.

Therefore, those devoted to religious liberty should be most cautious about any proposal that alters or affects the First Amendment. They should demand proof that the proposal is needed and assurance that it will do better the things the First Amendment has done so well. Short of such proof and assurance, they should oppose changing the First Amendment. Echoing Edmund Burke, "The onus of proof is on the proposer of change."

THE NATURE OF WORDS IN THE CONSTITUTION AND ITS AMENDMENTS

Read the Constitution and its Amendments noticing the pivotal words. They are broad words, subject to varied interpretations. "Interstate commerce," "liberty" "respecting an establishment of religion," "due process of law." These words necessarily say somewhat different things to different people and different generations. Were they narrow words of rigidly limited meaning, we would have had to ignore the Constitution or rewrite it several times by now. Some of our states drew up rigidly phrased constitutions and now wink at their regular violation. In political history the enduring and honored constitutions have been flexible. They have slowly gained their meaning by usage.

Quite properly, the leading proposals for a new amendment to the Constitution on the issue of publicly sponsored religious exercises have been cast in broad terms. For example, one says that nothing in the Constitution shall prohibit "the public authority administering any school system . . . or other public building supported in whole or in part through the expenditure of public funds from providing for or permitting the voluntary participation by students or others in prayer."

Obviously, these are not rigidly limiting words. "The public authority administering" is a very broad phrase. What agencies are covered by it? "From providing for" is even broader. Could this not mean the erection of a chapel and the hiring of a chaplain? No one knows today, even the author, for he would not be the interpreter of its actual operation.

In the long course of years, such an amendment could be used to alter present law on religious freedom and church-state relations in unpredictable ways. Were we in a bad situation respecting religious freedom, this might readily be hazarded. But the First Amendment alone has served us well. We have a backlog of case law that makes its meaning much more predictable than the meaning of a new amendment. Why experiment on this sensitive matter at this point in our history?

WHAT THE SUPREME COURT DID IN THE PRAYER CASES

But some will say, "The Supreme Court took away our right to pray in school. The situation is bad." This judgment is flatly incorrect. The Supreme Court denied power to organize and promote religious exercises to *state authorities*—i.e., public school officials, not to individuals or purely voluntary groups. No federal decisions say a purely voluntary group may not get together for prayers in schools or other public buildings. True, some local officials have said so, but a federal amendment is not the answer to faulty local educational decisions.

Further, the Supreme Court did not restrict the use of the Bible for educational purposes. It clearly and solely restricted its use for what most Baptists would call devotional purposes. There is a big difference between the two uses.

THE NOVELTY OF THE PRAYER AMENDMENTS

To be sure, some argue that the amendments' intent is only to return us to practices of days before the Court restricted school religious exercises. But if that is so, the authors have erred badly and inexcusably. The proposal cited above involves a delegation of power in matters of religion to the federal government. Never before under the Constitution has there been such a power. The scope of delegated federal power, therefore, is moved into an area of authority previously reserved to the people or the states. Put differently, now the federal Constitution only has clauses relating to religion which restrict government. Most suggested prayer amendments involve clauses which empower government.

ONE DILEMMA OF STATE RELIGIOUS EXERCISES

Before Christians move to support changes affecting the First Amendment to give governments power to provide prayer, they should face squarely the dilemma that any government must meet if it tries to promote religion.

On the one hand, if by some miracle state religious exercises can attain the level of true religion, these exercises cause domestic religious conflict. Each religious group that disagrees with this religious expression will have to swallow its conscience or will have to agitate to end this expression or will have to try to substitute its own variety of "true religion." Partly because of this fact learned from the bitter past, Americans have given broad meaning to the phrase, "Congress (or the states) shall make no law respecting an establishment of religion." They wanted it to limit government authority over religion so that religious controversy would not become political controversy.

On the other hand, if the state religious exercises are devised to satisfy everybody, they are not true religion. Indeed, they are a fraud. They encourage the participant to think he is religious or Christian because he goes through forms that seem religious or Christian. This kind of "comfortable" religion is cultural religion, a thing Christians who believe in a conversion experience have often insisted is an obstruction to faith.

ARGUMENTS AGAINST STATE-SPONSORED RELIGIOUS EXERCISES

This dilemma alone makes the prospects of state-sponsored prayer or devotions under the proposed amendments of doubtful value to the individual or the society. And this dilemma includes only the beginning of a long list of arguments that can be mounted against state-sponsorship of religious exercise. A more complete list would include these considerations: The nature of true devotional exercises argues against their sponsorship by public authority. School prayers in classes for the younger child cannot be truly voluntary. Christians and the church, not the state, have the only Biblical authority in the area of religious exercises. Government should be strictly limited in its powers at the point of religious functions. Religious exercises are hard to handle in a pluralistic society. In actual practice, school religious exercises are commonly prostituted to such secular ends as classroom discipline and the promotion of school loyalty. Classroom religion has been shown to have little or no utility in the promotion of religious values. Nations which have had an abundance of classroom religion have not produced a vital religion in their citizens compared to America where classroom religion has been minimized or where it has not existed for generations. Classroom religion promotes the attitudes associated with cultural religion. An appeal for state-sponsored religious exercise is an argument that the family and church are inadequate for their religious tasks.

A FINAL PARADOX

Some people plea for government sponsorship of religious exercises, "because we are a religious people." Were we truly a religious people, we would scarcely need government action to show it! We would show it by the abundance of our private and voluntary practice. And then there would be no question about its reality.

GENERAL LEAVE

Mr. SCHWENGEL. Mr. Speaker, a number of Members of the House have asked permission to have their statements put in the RECORD, so at this time I ask unanimous consent that all Members may have until close of business tomorrow in which to extend their remarks and include extraneous matter on this subject.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PRAYERS IN PUBLIC SCHOOLS

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 1 hour.

Mr. CORMAN. Mr. Speaker, for the past 8 years a major controversy has raged around the question whether or not government should be allowed to prescribe the organized recitation of prayers in public schools.

In 1964 the House Judiciary Committee responding to a barrage of public pressure agreed to hold public hearings on the issue of the school amendment. After months of hearing testimony from experts in the fields of law, education, and theology it was apparent that there was no substantial support for the amendment and the committee decided to recommend no changes in the first amendment.

Proponents of the amendment rekindled the controversy in 1966 and were successful in having the issue brought before the Senate for consideration. The Senate, concurring with the earlier decision reached by the House, was also in opposition to any amendment which would tamper with our religious freedom as it is preserved under the first amendment.

Relying on the tactics of fear and irresponsible rhetoric, the proponents were successful in bringing this issue to the forefront again this year and in securing the 218 names necessary to have this legislation discharged from the House Judiciary Committee.

Under the discharge procedure of the House, House Joint Resolution 191 is eligible to be brought up for consideration on Monday, November 9, with 1 hour of debate.

Considering the serious threat this amendment poses to our religious freedom, it is deserving of much more than the hour's debate allowed under House rules. In the absence of full committee hearings, the gentleman from Iowa (Mr. SCHWENGEL) and I have attempted to direct the attention of our colleagues to material which carefully analyzes the many arguments which surround this legislation.

In the 5 weeks since the discharge petition was successfully signed, we have submitted for consideration various examples of testimony which were heard at the 1964 House Judiciary hearings. We have also alerted our colleagues of the widespread opposition to this measure by such noted church groups as the National Council of Churches, the Southern Baptist Convention, the Lutheran Church of America, the American Baptist Convention, the United Methodist Church, the Episcopal Church, the United Presbyterian Church, and the National Jewish Community Relations Advisory Council as well as innumerable renowned experts in the field of constitutional law.

The subject in question remains the same today as it was in 1964 and 1966 and that is whether or not government should be allowed to prescribe the organized recitation of prayers in public schools.

In the 1962 and 1963 Engel and Schempp rulings, the Supreme Court took great care to protect the religious liberty of all citizens by forbidding the imposition of religious exercises upon public school students.

The right of individual children to pray voluntarily in school is secure. No change in the Constitution can improve on that constitutional protection. The proposed amendment, or any modification of it, could only create widespread confusion, lead to endless controversy and litigation over what prayers are or are not permissible, and strengthen the hand of those who would use compulsory school attendance to impose some sort of Government-sponsored religious exercises on children.

The schools have a monumental education task in these days of rapid change and social upheaval. Diverting them from that task and adding theological concerns to their education agenda would be tragic. The public schools, in a religiously pluralistic society, should serve the learning needs of children, not their devotional needs. If anyone imagines that the religious groups of America could agree on "nondenominational" prayer or accept the State's definition without conflict, he does not understand the dynamics of religious commitment. The public schools must not become the arena for such controversy.

The individual States by virtue of their "police power" have the authority to require compulsory education for all children. But under the "free exercise" clause of the first amendment, States are prevented from interfering with the religious practices of their citizens.

Enactment of the prayer amendment would result in our amending the Bill of Rights which is something which has not been done at any time in the history of our country. It would also represent the first time that a constitutional amendment has been used to restrict our individual rights rather than to expand upon them. Enactment of this potentially dangerous measure could very well be used as a precedent for rewriting other historical freedoms which we have been successful in protecting from infringement for close to 200 years.

If the proponents of the prayer amendment are successful in providing for teachers to conduct organized prayer in our public schools, the next logical step would be to give these same teachers the authority to tell children how to pray and the authority to explain to our children exactly what prayer means. Enactment of this amendment could easily be the first step down a road toward government control of religious activities.

I urge my colleagues to reflect on the very personal nature of an individual's religious beliefs and vote to preserve religious freedom as it is guaranteed by the first amendment by voting in opposition to the school prayer amendment.

On October 12, my distinguished colleague from Florida (Mr. GIBBONS) wrote to Representative CHALMERS WYLIE, the chief proponent of House Joint Resolution 191 and presented a series of questions to him regarding the nature and scope of his proposed amendment.

In responding to these questions Mr. WYLIE has given us some understanding of his concept of his "nondenominational" prayer. His remarks confirm our worst fears about the impact of the amendment.

Perhaps the most remarkable portion of Representative WYLIE's lengthy explanation of what his amendment will and will not do appears in the following passage:

> It is fair to say, also, that a prayer could be nondenominational in the context of the overall school program even if it would be regarded as sectarian if considered in isolation. It would seem to be legitimate for the appropriate authorities to permit the different religions represented in the school or other activity to take turns in offering a prayer of their respective religions. Considering the matter in its totality; the overall character of such a policy would be nondenominational.

In other words, this amendment will permit very sectarian prayers to be said in our schools as long as no one religion receives special treatment. This is not what the ordinary person would understand to be the meaning of the word "nondenominational." I would be very surprised if even my colleagues who have supported House Joint Resolution 191 understood that this was what they were proposing.

Representative WYLIE views his amendment as relating solely to voluntary prayer and in no way involving any establishment of religion. Yet Representative WYLIE's statements include the following:

> It would be lawful under the Amendment, for the school to provide for the recitation of a prayer during school hours.
>
> The composition or selection of the prayer would be the function of the local school authorities. In the usual case, this would be the local school board.
>
> The official in charge of any specific activity where a prayer was a part would have the primary responsibility to say whether it was or was not nondenominational.
>
> The fact that a decision (by a student or teacher) not to participate may result in some embarrassment to the nonparticipant would not be a sufficient reason to prohibit others from participating in the prayer.

These statements demonstrate clearly that Representative WYLIE seeks to restore to our schools a situation where the Government will prescribe the content of a nondenominational prayer, require its recital at the opening of the schoolday and force anyone who objects to single himself out for attention by standing quietly without participating or by leaving the room.

In our view, schoolchildren will inevitably be coerced, directly or indirectly, to conform. State-prescribed prayer will in effect be mandatory. Individual religious liberty is a fundamental tenet of our system of government, as is the prohibition against State involvement in religion. Both will be sorely jeopardized if this amendment is enacted.

Passage of the amendment will have a totally unsettling effect on school officials all over the country. They will be responsible for selecting nondenominational prayers. They will thereby be the target for parents who want a Christian prayer, parents who object to a Christian prayer, parents who want no prayer, and parents who complain that no prayer violates their rights.

Our schools have a monumental job to do in the 1970's. All over the country their resources, both human and financial, are sorely overtaxed. Polarization over integration and busing is growing. To add to their already enormous burdens the responsibility for mediating the demands of different "prayer" factions makes no sense, especially where the homes and churches could do this job instead.

The courts too will be totally overwhelmed under Congressman WYLIE's view of the areas which will demand extensive judicial review:

> Judicial review to determine whether a prayer selected is really nondenominational.
>
> Judicial review to stop prayer if it interfered with the educational functioning of the school.
>
> Judicial review to correct abuses in the school board's delegation of the power to compose a prayer.
>
> Judicial action to enjoin prayer where the courts determined the prayer was not really nondenominational.
>
> Judicial review to prevent any form of compulsion to participate.
>
> Judicial review of a school board's refusal to select a particular prayer, or any prayer.
>
> Judicial relief for any parent who disagreed with any of the above decisions.

We agree with Congressman WYLIE that his amendment will produce all this litigation. And for what? To have a bland moment of prayer in the public schools when the homes and churches could do a better job. Our courts are already overburdened with a vast array of jobs, including the enormous task of dealing with those charged with crimes. They need no new burdens of the magnitude which will be involved here.

Representative WYLIE, in asserting that his amendment in no way infringes on the establishment clause, asserts that the Supreme Court prayer decisions have "established agnosticism as the official public religion of this Nation."

Nothing could be further from the truth. The Supreme Court decisions have established only that government must be neutral toward religion. Moreover, it is Representative WYLIE who seeks to "establish" religion by sanctioning school prayer so as "to reverse the Supreme Court's establishment of agnosticism as the national religion." The clear implication is that Representative WYLIE would replace the neutrality he views as an establishment of agnosticism with an establishment of religiosity. This the Constitution should continue to forbid.

Statements of religious bodies, presidents of theological seminaries, deans of divinity schools, Baptist leaders, State Councils of Churches, and the Vermont Baptist State Convention are in opposition to the "prayer resolution" plus religious and newspaper editorials opposing the amendment, are as follows:

STATEMENTS OF RELIGIOUS BODIES

National Council of Churches of Christ in the U.S.A.:

"The Supreme Court of the United States in the Regents' Prayer case has ruled that 'in this country it is no part of the business of government to compose official prayers for any group of the American people to recite

as part of a religious program carried on by the government.' We recognize the wisdom as well as the authority of this ruling. . . ."

"We express the conviction that the First Amendment to our Constitution in its present wording has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberty of all our citizens."—"The Churches and the Public Schools," adopted by the General Board, June 7, 1963.

The United Methodist Church:

"Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observances or study. . . ."—"A Statement Concerning Church-Government Relations and Education," adopted by the General Conference, May 1968.

"We . . . request the Congress of the United States to retain the historic relation between Church and State and to oppose H.J. Res. 191 and any other proposed prayer amendment to the Constitution."—Statement by the General Board of Christian Social Concerns, October, 1971.

The Episcopal Church:

"Whereas, We believe that worship and religious education are the responsibility of Church and home, and not of the public schools or governmental institutions . . ., therefore, be it

"Resolved, That the National Council of the Protestant Episcopal Church record its considered opinion that amendments to the Constitution of the United States of America which seek to permit devotional exercises in our public schools should be opposed."—The National Council of the Protestant Episcopal Church, May 27, 1964.

The Lutheran Church in America:

"The Constitution should not be amended except to achieve large and important public needs and purposes consistent with the basic nature of our constitutional system. The current proposals for constitutional amendment do not meet these standards. Parents, churches and school authorities would be better advised to direct their efforts to programs for study of religion and the Bible in the public schools . . . rather than to seek constitutional sanctions for devotional exercises in public schools that have at most a minimal religious value, which invite the intrusion of sectarian influences into the public school system, risk the violation of the rights of religious freedom and are a potential source of conflict in the community."—Second Biennial Convention, July 1964.

American Lutheran Church: "Proposals are now pending before the Congress of the United States to amend the Constitution in order to give constitutional sanction to certain types of religious practices in public institutions and in the public life. . . .

"We believe that it would be unwise for the Congress to give its approval to any such amendment . . . We . . . recognize . . . that in the end religion suffers and religious liberty in its fullness is threatened when government uses the power of its laws and the public school program to prescribe an official faith. . . ."—From "A Statement Commended by the Church" by the Second General Convention, Oct. 26, 1964.

The Lutheran Church, Missouri Synod: "The Board of Parish Education of the Lutheran Church—Missouri Synod, feels that the Dirksen (prayer) Amendment fails to recognize fully the religious pluralism of the American scene. We believe that Christians cannot join with non-Christians in addressing God in circumstances that deny Jesus Christ as Saviour and Lord. We believe likewise that non-Christians should neither be expected to participate in Christian prayer nor should they expect Christians to join them in prayers that deny Christ."

"The concept of voluntary participation in prayer provides either a coercive force or an embarrassing situation for both Christians and non-Christians. Under these circumstances we believe that it is best for the public school not to engage in prayer or other religious worship exercises." —The Board of Parish Education, July 29, 1966.

The United Presbyterian Church in the religious worship exercises."—The Board U.S.A.: "Religious observances (should) never be held in a public school or introduced into the public school as part of its program . . . Bible reading and prayers as devotional acts (in public schools) tend toward indoctrination or meaningless ritual and should be omitted for both reasons."—"Relations between Church and State in the United States of America," adopted by the 175th General Assembly, May 1963.

The Southern Baptist Convention: "Baptists had much to do with the writing of the First Amendment into the Constitution of the United States and have been in the forefront of preserving the religious liberty that our nation has enjoyed.

"We appeal to the Congress of the United States to allow the First Amendment of the Constitution of the United States to stand as our guarantee of religious liberty, and we oppose the adoption of any further amendment to that Constitution respecting an establishment of religion or respecting free exercise thereof.—Resolution adopted by the Southern Baptist Convention, May 22, 1964, reaffirmed June 2, 1971.

The United Church of Christ:

The Executive Council of the United Church of Christ supports the Supreme Court decision banning prescribed prayers and prescribed Bible reading in the public schools, calls attention to the aspect of the Supreme Court decision which affirmed the freedom of the schools to engage in the study of religion and opposes House Joint Resolution 191 which seeks to amend the United States Constitution.—Resolution by the Executive Council of the United Church of Christ, Oct. 12, 1971.

Christianity Today:

"We think that passage of this amendment would be a mistake. For one thing, persons already can and do voluntarily assemble for prayer in public buildings. . . .

"Secondly, this amendment is hardly the way to promote a revival of true religion. . . . Genuine piety is fostered not by government . . . but by families and individuals who practice reverence for God and obedience to him in all their activities and associations. . . .

"Finally, this amendment leaves open the possibility for some to assert that denominational prayer should not be permitted in public buildings. . . . Youth groups such as Campus Life or Inter-Varsity should be able to meet in schools for explicitly Christian prayers without fear that misguided authority will say only groups praying in a way that is acceptable to all religions are now constitutional."—Editorial, Oct. 8, 1971, page 32.

The American Baptist Convention:

"An amendment to permit compulsory Bible reading and prayer in the public schools is not only a danger to the freedom of nonbelievers, it is also a threat to the religious well-being of the believer. It is because of a deep respect for worship, and the recognition that prayer is essential and should be a vital encounter between man and God, that Baptists oppose devotional exercises that are more rote than worship. Therefore we affirm our belief in the separation of church and state as written in the first amendment of the Constitution of the United States."—Resolution adopted by the American Baptist Convention, May 22, 1964.

The Roman Catholic Church:

On June 16, 1964, the then National Catholic Welfare Conference issued a press release which stated:

"The Legal Department of the National Catholic Welfare Conference is very cautious toward the present interest of some in amending the Constitution in the manners now proposed to overcome recent judicial decisions precluding prayer and Bible reading in public schools. . . .

"The department continues to believe that the present clauses in the Constitution are of incalculable benefit to religion. . . . In combination, the 'free exercise' and 'no establishment' clauses are guarantees too vital to be tampered with lightly. . . ."

America Magazine, Jesuit Weekly:

"Reconciling the rights of all parents and students with respect to religion in public schools is a serious, difficult problem. It should not be trifled with by passage of this . . . ill-written, mischievous, and misconceived . . . amendment."—Editorial, Oct. 23, 1971.

The Christian Century:

"The proposed amendment would be a step toward a lowest-common-denominator culture-religion . . . which would endanger true religion as well as civil liberties by equating religious ideas and practices with national culture and patriotism.

"Prayer is an act of worship, not a gimmick for cranking up the academic or civic machinery. . . . Acts of worship cannot be divorced from real historical commitments without endangering the vitality of the religion or religions involved."—Editorial, Oct. 20, 1971.

Snagogue Council of America, and National Jewish Community Relations Advisory Council:

"Our Constitution can, of course, be amended . . . but . . . if the Constitution is amended . . . then let no one who supports this measure delude himself or his countrymen that he has rendered religion or liberty a service. In a plural society, it is not and should not be the business of government to aid religion and if it does assume that role, then, in the very process and precedent it establishes, it does religion a harm and disservice that will far outweigh the intended benevolence. For it will have compromised that free and unfettered exercise of religious liberty without which religious faith cannot for long retain its integrity and independence.

"Our profound respect for the role of our legislature and for the sacrificial desire of its members to serve the common good leads us to say to members of this Committee: Your business is not the promotion of religion. It is rather the preservation of a free and just society, for that, and nothing other and nothing less, offers the surest safeguard for the preservation and strengthening of our religious heritage."—Statement before Senate Judiciary Committee, August 8, 1966 by the Synagogue Council of America and the National Jewish Community Relations Advisory Council. (Approved and adopted joint testimony by all of the constituent organizations of both bodies.)

STATEMENT OF OPPOSITION TO PROPOSED CONSTITUTIONAL PRAYER AMENDMENTS, SEPTEMBER 15, 1971

The undersigned national religious organizations and leaders express their united opposition to S.J. Res. 191, now pending in the House of Representatives, and to other similar proposals for constitutional amendments to authorize "nondenominational" prayer in public buildings. We express the long-standing official positions of the nation's religious faiths which affirm the adequacy of the First Amendment to protect religious interests and to ensure religious rights.

The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of nondenominational" prayer. We deny that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional prayer amendment. To authorize government by a constitutional amendment to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make

of govenrment of a judge of theology and an administrator of religious practice. If such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could destroy the integrity of both church and state.

The proposed constitutional amendment would introduce divisiveness into our national life and among the institutions of religion. Ostensibly proposed in behalf of religion, it would paradoxically proscribe and distort freedom of religious expression.

If the proposed prayer amendment should become a part of the Constitution, the Bill of Rights would have been amended for the first time in our nation's history. Such an amendment would open the doors for governmental intrusion into the religious affairs of the people. This we protest.

On the other hand, we affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right is adequately protected by the First Amendment as it now stands. For this reason we also affirm the wisdom of the Supreme Court decisions in 1962 and 1963 which properly prohibited government intrusion into the religious activity of school children.

We therefore respectfully petition the Congress of the United States to preserve the religion clauses of the First Amendment intact and to oppose any and all prayer amendments to the Constitution.

Dr. W. Hubert Porter, Associate General Secretary, American Baptist Convention.

American Ethical Union.

American Humanist Association.

Rev. Warren R. Magnuson, General Secretary, Baptist General Conference.

Baptist Joint Committee on Public Affairs.

The Church of the Brethren.

Executive Council of the Episcopal Church.

Friends Committee on National Legislation.

General Board of Christian Social Concerns, The United Methodist Church.

Mennonite Central Committee—Peace Section.

Dr. Joseph H. Jackson, President, National Baptist Convention, U.S.A., Inc.

National Council of the Churches of Christ in the U.S.A.

Rev. G. K. Zimmerman, Executive Secretary, North American Baptist General Conference.

Joint Advisory Committee of the Synagogue Council of America and the National Jewish Community Relations Advisory Council, consisting of:

American Jewish Committee

American Jewish Congress

B'nai B'rith—Anti-Defamation League

Central Conference of American Rabbis

Jewish Labor Committee

Jewish War Veterans of the USA

National Council of Jewish Women

Rabbinical Assembly

Rabbinical Council of America

Union of American Hebrew Congregations

Union of Orthodox Jewish Congregations of America and 85 state, county, and local Jewish Community Councils.

Rev. Richard J. Niebanck, Secretary for Social Concerns, Board of Social Ministry, Lutheran Church in America.

Office of Church and Society, Presbyterian Church in the United States.

Dr. S. S. Hodges, Executive Secretary, Progressive National Baptist Convention, Inc.

Rev. Alton L. Wheeler, General Secretary, Seventh Day Baptist General Conference.

Dr. Carl E. Bates, President, Southern Baptist Convention.

Council for Christian Social Action, United Church of Christ.

Unitarian Universalist Association.

Dr. William P. Thompson, Stated Clerk, United Presbyterian Church in the U.S.A.

Mrs. Marcus Rohlfs, President, American Baptist Convention.

Catholic Conference Opposes "Prayer Amendment"

WASHINGTON.—The U.S. Catholic Conference has gone on record in opposition to the so-called school prayer amendment, which is currently before the House of Representatives.

The Conference's position was announced by Bishop Joseph L. Bernadin, U.S.C.C. General Secretary, who said:

"I wish to emphasize that the Conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools.

"Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer."

The text of the proposed constitutional amendment, on which the House is expected to vote November 8, states:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer."

Bishop Bernadin said:

"The subtle implication of the amendment, therefore, is that 'denominational' prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.

"Moreover," Bishop Bernadin continued, "the amendment cannot be justified as a 'school prayer' amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the school prayer cases."

"Passage of the amendment," he added, "might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved."

A Resolution on Religious Freedom and the Nondenominational Prayer Amendment

(Sec. 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer. H.J. Res. 191.)

Whereas, there is currently before the House of Representatives a proposal (H.J. Res. 191) to amend the Constitution of the United States so as to authorize participation in nondenominational prayer in any public building; and

Whereas, this proposal, by authorizing participation in nondenominational prayer, opens the door for government to determine what is acceptable prayer; and

Whereas, we are vitally concerned to maintain religious liberty, without any infringement by governmental regulation of any form, as now provided without qualification by the First Amendment to the Constitution;

Be it therefore resolved that we, the Baptist Joint Committee on Public Affairs, assembled in formal session on October 6, 1971, hereby record our opposition to H.J. Res. 191, and support our stand with the following reasons:

1. We are sympathetic with the sincere desire of many people to preserve the right of all persons to engage in genuine prayer. We deny, however, that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional nondenominational prayer amendment.

2. Moreover, we foresee that to authorize government by a constitutional amendment to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make of government a judge of theology and an administrator of religious practice.

3. We fear that, if such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could threaten the integrity of both church and state.

4. The amendment could enable government to impose the limits of "nondenominationalism" on religious practices in any building that is built in whole or in part by public funds—a school, a hospital, a day care center, a nursing home, a children's home—thereby nullifying the constitutional right of the free exercise of religion.

5. We affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right, we believe, is protected adequately by the First Amendment as it now stands:

Article 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . . .

6. Finally, it is our opinion that the proposed amendment is offered in view of a misinterpretation of the so-called "prayer and Bible reading" decisions of the Supreme Court in 1962 and 1963, which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises.

The Wylie Prayer Amendment and Our Cherished Religious Liberty

(Adopted by the Church Council* [top policy-making group] of The American Lutheran Church on October 22, 1971.)

The guarantees of religious liberty written into the Constitution of the United States have served this nation well. Both church and state are the stronger because government cannot pass laws "respecting an establishment of religion or prohibiting the free exercise thereof."

As American Lutherans we cherish the freedom and the responsibility the First Amendment assures us. We cherish our freedom to pray, to assemble, to worship, to study, to teach, and to serve our neighbors as the fullness of our faith directs. We respect the similar freedoms and responsibilities of our neighbors of other religious faiths. We do not seek to impose our understandings upon them; we expect the same consideration from them.

By its very nature, religious expression is both personal and corporate. It cannot be forced or coerced. It must be true to its distinctive self and to its own corporate commitment. It resists becoming the captive of any race, class, ideology, or government, lest it lose its loyalty to its Lord.

This protection we enjoy in America. We are free to pray in our own words to our own God. We are free to read the Bible in the version we prefer. We are protected against having to speak governmentally composed

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*Vote: 40 yes, 0 no, 0 abstaining, 4 absent.

Makeup of Church Council: one parish pastor and one layman from each of the 18 Districts, two pastors-at-large, three laymen-at-large, ALC President and Secretary (a layman). [Comment: One more layman than clergy.]

prayers. We are protected against having to join in devotional exercises decreed by governmental authorities. We are free to pray in public and to read the Bible in public places. We cannot, however, force others to join us in such expressions of our religious faith. These freedoms and these protections our Constitution, as interpreted by the Supreme Court in its school prayer and Bible reading decisions, presently assures us.

We see no need, therefore, for any amendment to the Constitution to permit participation in "nondenominational prayer" "in any public building." Such an amendment would endanger our religious liberty; it would tend to establish a governmental nondenominational religion; it would pave the way for courts to intervene in defining what is acceptable as an expression of religion; and it would limit rights already granted and clearly established in American life.

The Church Council in 1971 reaffirms the paragraph commended by the 1964 General Convention and adopted by the 1966 Convention "as an expression of the policy and conviction of the American Lutheran Church":

"Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. To compel these religious exercises as essential parts of the public school program, however, is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. We believe that freedom of religion is best preserved when Scripture reading and prayer are centered in home and church, their effects in the changed lives of devout persons radiating into the schools and into every area of community life. It is as wrong for the public schools to become agents for atheism, godless secularism, scoffing, irreligion, or a vague "religion in general" as it is for them to make religious rites and ceremonies an integral part of their programs."

As a nation we should be careful not to endanger our cherished religious liberty through the well-intended but potentially harmful "prayer amendment" (House Joint Resolution 191).

Opposition to Prayer Amendment to the Constitution

The Women's Division of the Board of Missions of the United Methodist Church expresses its grave concern over the movement for passage of the Prayer Amendment to the U.S. Constitution. We believe that such action would seriously jeopardize the traditional separation of church and state, erode the guarantees of the First Amendment, and cause substantial and unnecessary divisiveness in the religious community.

We would like to reaffirm the position of the 1968 General Conference of The United Methodist Church when it declared: "Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observance or study."

The concept of government-imposed "nondenominational prayer" tends to ignore prayer as a personal communication between God and man. Such voluntary personal prayers may be offered in the public school at the present time, and are not in violation of Supreme Court decisions of 1962 and 1963.

We believe that "nondenominational prayer"—without particularized faith content and purposely intended to be inoffensive—would most likely result in meaningless petitions. Nothing could better be designed to alienate children and youth from commitment to a vigorous faith than being required to mouth meaningless prayers in the classroom.

Be believe it is unlikely that the major faiths will ever agree as to the precise meaning of the phrase, "nondenominational prayer". At the same time we refuse to confer upon governmental authority either the right or the theological competency to compose prayers to be used in public schools. In no way do we disparage the sincere efforts of those who seek to extend the influence of religion in our society. However, we believe the Prayer Amendment is not the proper vehicle. Instead we reaffirm our conviction that worship should be centered in the home, the churches and synagogues, and their congregations, rather than turned over to the schools or any public agency.

We, therefore, respectfully request the Congress of the United States to retain the historic relation between church and state and to oppose House Joint Resolution 191 and any other proposed prayer amendments to the Constitution.

Adopted October 24, 1971, by the Women's Division of the Board of Missions of the largest women's religious organization in the country. United Methodist Church, which is the elected national leadership of the 36,500 local women's organizations of the United Methodist Church.

Statement of Opposition to "Prayer" Amendment

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urged you to *oppose* the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly *America*, is an "ill-written, mischievous and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers') specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayed with integrity either by the believers or the unbelievers. It could only become a 'pro forma' exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious literature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge the members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution:

J. Brooke Mosley, President, Union Theological Seminary, New York.

Colin Williams, Dean, Divinity School, Yale University, New Haven.

Christopher F. Mooney, S.J., President, Woodstock College, New York.

George W. Webber, President, New York Theological Seminary, New York.

Edward R. Harris, Dean, Philadelphia Divinity School, Philadelphia.

Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tennessee.

Frederick Wentz, President, Hamma School of Theology, Wittenburg University, Springfield, Ohio.

Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.

Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago.

Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.

Louis J. Putz, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.

John H. Tietjen, President, Concordia Seminary, St. Louis.

W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago.

Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.

Marshal L. Scott, President, McCormick Theological Seminary, Chicago.

David J. Draewell, President; Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, South Dakota.

Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Missouri.

Merlyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Illinois.

John L. Knight, President, Wesley Theological Seminary, Washington, D.C.

Albert C. Winn, President, Louisville Presbyterian Theological Seminary, Louisville, Kentucky.

James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pennsylvania.

Walter G. Muelder, Dean, Boston University School of Theology, Boston.

Fred W. Meuser, President, Evangelican Lutheran Theological Seminary, Columbus, Ohio.

W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.

Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia.

Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas.

Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.

Beauford A. Norris, President, Christian Theological Seminary, Indianapolis.

J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

Proposed Prayer Amendment Would Endanger Religious Liberty, Baptist Leaders Declare

A number of Baptist leaders in the nation have asked Congress not to weaken or repudiate the First Amendment to the U.S. Constitution by passing a so-called prayer amendment to permit "nondenominational prayer" in public buildings.

The top executives and elected heads of six Baptist groups, in letters and statements to Congress, declared support for the Supreme Court decisions of 1962 and 1963 which prohibited government-sponsored prayers and devotions in public schools.

W. Hubert Porter, associate general secretary of the American Baptist Convention, in a letter to Cong. Emanuel Celler urged him to do everything in his power "to defeat all efforts to weaken or evade the First Amendment.

"Crusaders for an amendment to cut the heart out of the First Amendment by making constitutional the legislation of religion can make their case sound deeply religious and superbly patriotic," Porter said in a letter entered by Celler into the July 27 issue of the Congressional Record, the official daily journal of Congress.

"They at times make it appear that the steadfast friends of the First Amendment are against God, country, and motherhood, but such an impression is a deception and a delusion," Porter charged.

"The truest friends of religion and the most constructive citizens of the state are those who support those First Amendment guarantees that have made possible in the United States of America a fuller measure of religious freedom than was previously known in the world," declared the ABC executive.

Other top Baptist executives urging Congress not to approve the prayer amendment

included S. S. Hodges of Washington, D.C., executive secretary of the Progressive National Baptist Convention, Inc, G. K. Zimmerman of Forest Park, Ill., the executive secretary of the North American Baptist General Conference, and Warren R. Magnuson, general secretary of the Baptist General Conference, Evanston, Ill.

The president of the Southern Baptist Convention, Carl E. Bates, of Charlotte, N.C., charged that the proposed prayer amendment "could lead to excessive involvement of the state in religious matters." Bates cited, in a message to Congress, the recent action of the SBC in which the convention reaffirmed its belief in the adequacy of the First Amendment to protect religious liberty.

"A new amendment to the Constitution on the subject of religious liberty could seriously alter church-state relations," Bates declared.

The acting executive director of the Baptist Joint Committee on Public Affairs, John W. Baker, explained that the proposed amendment to the Constitution "could circumscribe" the First Amendment in ways that would alter its meaning. It "creates ambiguities which do more harm than good for people and institutions," he said.

Baker, a political scientist, explained that the proposal raises several questions. "Does it mean that only nondenominational prayers could be prayed in a denominational or public institution which receives public funds? Who decides for an institution what is a lawful assembly? What problems are raised by the 'right of persons lawfully assembled'? Do others have the same rights? Who determines the content for a nondenominational prayer in a school? The school board, the superintendent, the principal, the teacher? If so, such a prayer becomes a government prescribed prayer," he said.

The Progressive Baptist executive, S. S. Hodges, agreed that a prayer amendment "could becloud the clear statement of the First Amendment and afford an opportunity for courts in the future to interpret the First Amendment differently."

The Supreme Court decision against an "official" prayer "does not hinder individuals from praying or giving other expression of their faith," Zimmerman observed.

"Furthermore, we do not believe that the Court eliminated God from our public life. It simply stated that the establishment of religion has a tendency to destroy government and to degrade religion," Zimmerman declared.

The American Baptist executive in his letter to Cong. Celler noted that "it is understandable that many good people are tempted to yield to the idea that the church 'has it made' when Congress puts God's name in the Pledge of Allegiance or prints His name on postage stamps and engraves it on coin or perhaps supports a 'Christian amendment.'

"But such a hope is really deceptive," W. Hubert Porter declared. "The idea of evangelism by legislation is nothing short of a dangerous illusion.

"Moreover," Porter continued, "it is quite clearly impossible for government to legislate religion without violating the rights of many citizens." If government gets into the business of sponsoring devotions on captive audiences, Porter wondered, whose religion it be?

"Will it be Buddhism in the state of Hawaii? Or Mormonism in the state of Utah Or a Baptist-oriented Protestantism in the state of Georgia? Or Roman Catholicism in the state of Massachusetts? Or Judaism in New York City?" Porter asked. He declared that the welfare of religion in a pluralistic society "must lean heavily upon a strict interpretation of the First Amendment."

(By Carl E. Bates, President, Southern Baptist Convention)

The proposed prayer amendment to the United States Constitution could lead to excessive involvement of the state in religious matters. The Southern Baptist Convention in St. Louis on June 2, 1971 reaffirmed its belief in the adequacy of the First Amendment to protect religious liberty. A new amendment to the Constitution on the subject of religious liberty could seriously alter church-state relations. As a Baptist I must be opposed to threats to religious liberty and, therefore, to a prayer amendment to the Constitution.

(By S. S. Hodges, Executive Secretary, Progressive National Baptist Convention)

The people called Baptists have always believed in and contended for the principle of religious liberty for all and the fact that prayer, to be genuine, must be voluntary . . . for prayer is communion with God.

The Progressive National Baptist Convention, Inc. adheres to this principle and believes further that prayer should neither be hindered nor compelled by any governmental or ecclesiastical authority.

We believe that the First Amendment to the Constitution which states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, is a sufficient guarantee of religious liberty for all. The Supreme Court of the United States has rendered decisions which fairly and adequately interpret this amendment.

We believe further that another amendment to the Constitution relative to religion in general and prayer in particular could becloud the clear statement of the First Amendment and afford an opportunity for courts in the future to interpret the First Amendment differently. Therefore, we oppose a prayer amendment to the Constitution.

(By Warren R. Magnuson, General Secretary, Baptist General Conference)

Through the years the First Amendment to the United States Constitution has proved to be a sufficient protection for the religious liberties of the American people. The decisions of the United States Supreme Court in its interpretation of the "establishment" and "free exercise" clauses generally have been sound.

As Americans we now enjoy full privileges and opportunities for the expression of our religious convictions. No additional amendments pertaining to religious liberty are needed now or for the foreseeable future.

(By G. K. Zimmerman, Executive Secretary, North American Baptist General Conference)

The decision by the Supreme Court that prayer "composed by government officials as a part of a government program to further religious beliefs" is unconstitutional is in keeping with the position held by our Baptist forefathers who sought religious freedom when they came to America. We continue to concur with the Supreme Court that the Regents' prayer in New York state was an "official" prayer and thus violated the rights of citizens under the First and Fourteenth Amendments. It does not hinder individuals from praying or giving other expression of their faith. Furthermore, we do not believe that the Court eliminated God from our public life. It simply stated that the establishment of religion has a tendency to destroy government and to degrade religion. Also, we believe that governmentally established religion and religious persecution go hand in hand. It is our hope and prayer that the decisions by the Supreme Court remain intact since this is in the best interests of our religious freedom.

[From the Baptist Press, Oct. 11, 1971]

SBC PRESIDENT URGES DEFEAT OF PRAYER AMENDMENT

(By Carl Bates, president Southern Baptist Convention)

Our Baptist forefathers fought and many of them suffered for the cause of religious freedom. Baptists made a significant contribution to freedom from governmental tyrrany by helping to get the First Amendment incorporated into the nation's Constitution.

Now we see not only separation of church and state being attacked, but we see the free exercise of religion itself about to be breached.

Specifically I refer to the proposed constitutional "non-denominational prayer amendment" that probably will be voted on by the House of Representatives in Washington on November 8.

I have read this amendment carefully and have studied the decisions of the Supreme Court concerning prayer and Bible reading in public schools. It is my deliberate opinion that the Supreme Court gave voluntary religion a tremendous boost by removing governmental authority from the devotional life of school children.

It is my further opinion that the proposed prayer amendment (House Joint Resolution 191) is one of the most insidious developments against freedom and true religion that I have seen.

What is a "non-denominational" prayer, anyway? Does this mean that one could not pray in Jesus' name in any public building? Baptists, Catholics, Unitarians, Jews, Buddhists, and dozens of other groups do not agree on the nature and form of prayer. It hardly seems likely that the legislature and the courts could solve this centuries-old debate and define "non-denominational prayer" to everyone's satisfaction.

Even if they could devise a prayer that would be absolutely non-sectarian, then the bill before Congress would require and make mandatory this kind of prayer in public buildings. That hardly seems to be "voluntary" prayer. The bill before the House of Representatives is a contradiction in several directions and it should be defeated.

The Southern Baptist Convention, meeting in St. Louis in June, took a strong position against any change in the First Amendment and in favor of the voluntary nature of religion.

I urgently request that every Southern Baptist do all in his power to exercise the stewardship of his Christian influence by urging his congressman to vote against the "non-denominational prayer amendment." Assure him that a vote against the amendment is not a vote against God or against prayer, but it is a vote for freedom and true religion.

Now is the time to stand up and be counted for freedom. Don't be deceived by an innocent-sounding constitutional amendment that is in reality a "booby-trap" and a time-bomb against true religion.

Believe me, the fight against the "non-denominational prayer amendment" is a fight against regimented and governmentally sponsored religion. Real prayer and genuine New Testament religion have nothing to gain and all to lose if this amendment becomes a part of the Constitution.

PROPOSED RESOLUTION

To: Board of Directors of the Iowa Council of Churches

Re: Statement and Resolution in Opposition to Proposed Constitutional Prayer Amendment

On September 21, a major step toward the first change in the Bill of Rights in the nation's history was taken in the U.S. House of Representatives when the last of the required 218 signatures by Congressmen were

added to a "discharge petition" for a "prayer amendment" to the Constitution. The effect of the discharge petition was to take the proposed amendment away from the House Judiciary Committee, to which it had been referred in January, and send it directly to the floor of the House, where it is expected to come to a vote on November 8.

If the proposed amendment receives a two-thirds majority vote in the House, which at this point is considered "very possible," it would go to the Senate. And if approved there, it would require ratification by three-fourths of the state legislatures.

The proposed amendment reads simply: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through expenditure of public funds to participate in nondenominational prayer."

On September 15, 1971, thirty-eight religious leaders and religious institutions, Jewish and Protestant, petitioned the Congress of the United States "to preserve the religion clauses of the First Amendment intact and to oppose any and all prayer amendments to the Constitution."

In support of our national colleagues and religious institutions, the Iowa Council of Churches adopts the following resolution:

RESOLUTION

Whereas, we affirm the adequacy of the First Amendment to the Constitution of the United States to protect religious interests and to insure religious rights;

Therefore, the Board of Directors of the Iowa Council of Churches expresses to its member bodies and their congregations and to the members of the United States Congress from Iowa its opposition to the proposed amendment (as stated in paragraph three above) to the Constitution of the United States.

THE CONNECTICUT COUNCIL OF CHURCHES

(A statement by the board of directors, October 22, 1971, concerning the Prayer Amendment—U.S. Congress)

We call to the attention of the constituency of the Connecticut Council of Churches that there is a proposed amendment to the U.S. Constitution—Bill of Rights H.J. Res. 191: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

Perhaps at first glance this seems to be a restoration of a "treasured" practice which has been prohibited by our Supreme Court. We call to your attention that after closer inspection of the amendment we feel that the risks are greater than the benefits.

We are convinced that the free exercise of religion in our land is the primary responsibility of the church and the home and not of the state. We are not willing to delegate even to the state the determination of what is and what is not "nondenominational prayer".

According to information now available, the amendment could come to a vote as early as Nov. 8, 1971. Under Congressional rules there will be only *one hour* of debate, controlled by the sponsor. If passed it goes to the Senate, which passed a similar bill last year, then it would go to the states for ratification. We protest this one hour procedure on such a sensitive and far reaching matter.

We call upon all congregations of Connecticut, the Constitution State, to give this prayer amendment their most thoughtful consideration and encourage them to take action to assure its defeat.

COUNCIL OF CHURCHES
OF GREATER WASHINGTON,
Washington, D.C., October 22, 1971.

The Council of Churches of Greater Washington joins with distinguished churchmen of all major Protestant denominations in expressing its opposition to H.J. Res. 191 now pending in the House of Representatives and to similar proposals for Constitutional amendments to authorize so-called non-denominational prayer in public buildings.

We join these leaders in restating the long-standing official positions of the nation's religious faiths which affirm the adequacy of the First Amendment to protect religious interests and to ensure religious rights.

The Council of Churches supports the following statement which was adopted on October 4 by the representatives of the major Protestant communions and by many Congressmen:

"We, as Americans, are already guaranteed the right to participate in prayer—non-denominational or denominational—in buildings, public and private, and whether or not lawfully assembled. All this is guaranteed to us under the free exercise clause of the First Amendment and none of it has been diminished by any opinions of the Supreme Court. Thus, the proposed amendment might actually serve to lessen our religious liberty rather than broaden it."

OHIO COUNCIL OF CHURCHES,
Columbus, Ohio, October 26, 1971.

Mr. JAMES A. HAMILTON,
The Washington Office, National Council of Churches, 110 Maryland Avenue, N.E., Washington, D.C.

DEAR JIM: As Bob Graetz may have already informed you, we took the following actions at our General Board meeting on October 21, and Bob is following through on correspondence which it requests.

Resolved that General Board of the Ohio Council of Churches endorse the September 15, 1971, public statement of 38 national religious organizations and leaders entitled "Statement of Opposition to Proposed Constitutional Prayer Amendments, and Be It Further

Resolved that we communicate these actions to the members of the Ohio delegation in the U.S. Congress and the members of the Ohio General Assembly; and Be It Further

Resolved that we communicate these actions to the members of our constituent bodies and urge them to take similar actions.

We have had articles on the Prayer Amendment in our October and November Ohio Christian News stating much of the material in your new brochure from the Baptists. We could use 100 additional brochures which I will send to key ecumenical and denominational people for them to order directly from you.

Thanks for your very helpful services as we work together on this issue.

Sincerely yours,

CARLTON N. WEBER,
Executive Director.

MINNESOTA COUNCIL OF CHURCHES
RESOLUTION

RESOLUTION OPPOSING PROPOSED PRAYER AMENDMENT TO U.S. CONSTITUTION

Whereas, the U.S. Supreme Court of the United States has decided that required religious exercises of Bible reading and prayers in public schools violate the First Amendment of the Constitution, and

Whereas, it is the function of the home and church or synagogue to lead in the use of devotional Bible reading and prayer, and

Whereas, the U.S. Supreme Court has made it clear that the public school is free and should be encouraged to help the student to study and gain information about religion as an essential part of social studies, literature, and the arts, and

Whereas, the major faiths themselves have been unable to achieve a consensus on a definition of "non-denominational prayer", and

Whereas, many public schools in Minnesota and throughout the nation are making commendable headway in providing students with opportunities for objective studies about religion as part of their cultural heritage, and

Whereas, we strongly believe that the proposed Prayer Amendment to the U.S. Constitution would introduce uncertainty and create more divisiveness and confusion into our national life, our public schools, and among our religious institutions,

We, therefore strongly urge our Minnesota Representatives in the U.S. Congress to vote against the prayer amendment (H.J. Res. 191) to the U.S. Constitution and that the Supreme Court decisions in 1962 and 1963 which properly prohibited government intrusion into the religious activity of school children, be upheld.

A RESOLUTION ON RELIGIOUS FREEDOM AND THE NONDENOMINATIONAL PRAYER AMENDMENT

(Sec. 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer. H.J. Res. 191)

Whereas, there is currently before the House of Representatives a proposal (H.J. Res. 191) to amend the Constitution of the United States so as to authorize participation in nondenominational prayer in any public building; and

Whereas, this proposal, by authorizing participation in nondenominational prayer, opens the door for government to determine what is acceptable prayer; and

Whereas, we are vitally concerned to maintain religious liberty, without any infringement by governmental regulation of any form, as now provided without qualification by the First Amendment to the Constitution.

Be it therefore resolved that we, the Board of Trustees and Directors of the Vt. Baptist State Convention assembled in formal session on Oct. 16, 1971, hereby record our opposition to H.J. Res. 191, and support our stand with the following reasons:

1. We are sympathetic with the sincere desire of many people to preserve the right of all persons to engage in genuine prayer. We deny, however, that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional nondenominational prayer amendment.

2. Moreover, we foresee that to authorize government by a constitutional amendment to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make of government a judge of theology and an administrator of religious practice.

3. We fear that, if such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could threaten the integrity of both church and state.

4. The amendment could enable government to impose the limits of "nondenominationalism" on religious practices in any building that is built in whole or in part by public funds—a school, a hospital, a day care center, a nursing home, a children's home—thereby nullifying the constitutional right of the free exercise of religion.

5. We affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right, we believe, is protected adequately by the First Amendment as it now stands:

Article 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise therof; . . .

6. Finally, it is our opinion that the proposed amendment is offered in view of a

misinterpretation of the so-called "prayer and Bible reading" decisions of the Supreme Court in 1962 and 1963, which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises.

OTTO NALLINGER,
Executive Minister.

[From the Commonweal, Nov. 5, 1971]

THE PRAYER AMENDMENT

All, or almost all, Americans believe in "separation of church and state" but the term means quite different things to, say, the American Jewish Congress and the Knights of Columbus. The editors of this magazine, in turn, would sometimes agree with one of these organizations and sometimes with the other, and often enough with neither. The AJC school often strikes us as too rigid and inflexible in its approach to church-state problems, too doctrinaire; the Knights, on the other hand, and many other Catholic spokesmen are more willing than we are to see the state undertake the church's work. This variety, we suppose, is part of what has come to be thought of as the American way of religious pluralism, in which competing interpretations of the First Amendment strive for public support.

Such a competition is now underway, with the opposing forces lining up on the issue of a constitutional amendment to permit prayers in public schools, which will soon come to a vote in the House. The pro-Amendment forces see this as their chance to reverse Supreme Court rulings striking down Bible reading and compulsory prayer in the public schools, and perhaps to cast a vote against all recent changes in American life of which they disapprove. The anti-Amendment forces, on the other hand, view the matter as just one more attempt to create some kind of "official" American religion and force it on a captive audience.

Often enough, church-state issues are tortured and tortuous, requiring agonizing deliberation and in the end frequently leaving one not completely settled and certain in mind. This does not strike us as one of those cases. The prayer amendment is a bad idea whose time we hope has not come. Non-denominational prayer is urged by its sponsors, but in fact the major religious bodies in this country have never been able to agree on what the term really means. What is non-denominational prayer to some is the establishment of a certain kind of Protestantism to others. Further, the subtle pressure that would force children to recite state-authorized prayers seems to us a clear violation of a valued and valuable American tradition of religious liberty. Finally, even aside from all these points, points which we consider substantial, there is the fact that the school prayer amendment represents only the sheerest kind of religious tokenism, providing the shadow rather than the substance of religious belief and worship. One may believe that this country has not yet succeeded in working out the most satisfactory relationship between religion and public education, as we do, and yet be firmly opposed to the prayer amendment. We hope the voting in the House will reflect this fact.

AN AMENDMENT CHEAPENING RELIGION—THAT IS HOW MISSOURI'S ATTORNEY GENERAL REGARDS SCHOOL PRAYER PROPOSITION

(From An Address By Attorney General John C. Danforth)

(NOTE.—The speaker, an ordained Episcopal clergyman, spoke at an Interfaith Dinner, Country Club Christian Church, Kansas City.)

There is now before Congress a constitutional amendment proposition which, if adopted, would provide as follows: " . . . nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

The point would be to permit what are known as non-denominational prayers in public schools. The background is that in 1963 and 1964 the Supreme Court of the United States interpreted the First Amendment to the Constitution as prohibiting prayers, even non-denominational prayers which could be agreed upon by all religions, from being offered as part of the program in public schools. Under the current interpretation of the First Amendment, it is contrary to the Constitution for a teacher to lead a class in prayer, any prayer.

I do not want to engage in a legal analysis of the purpose and meaning of the establishment and free exercise clauses of the Constitution. Instead, I want to think with you about the fervor with which school prayers are championed, and what this fervor says about the health of religion in America today.

Those who feel that public school prayers are important to the religious development of children are naturally ardent in supporting the proposed constitutional amendment. Yet, such a position would amount to an admission of failure by the churches and by parents in providing children with a sufficient religious background. It would be a statement that what happens in the church and what happens in the home must be supplemented at school, or our religious heritage is in peril.

In reality, the form of supplemental religion offered by non-denominational prayer is of questionable value, at best. A non-denominational prayer must be acceptable to everyone. It must receive the approval of Catholics, Protestants and Jews, of Hindus, Muslims and Buddhists, of believers in Shinto, practitioners of ethical science, agnostics and even atheists. It must of necessity be innocuous and qualitatively different from prayer offered in the home or in the church.

In 1967, the following prayer recited at lunch time in Illinois public schools was held unconstitutional: "Thank you for the flowers so sweet. Thank you for the food we eat. Thank you for the birds that sing. Thank you for everything." Had that prayer been recited in the Jefferson City public schools where my children are enrolled, I would have resented it bitterly, for that sort of insipid prayer has nothing whatever to do with my religion or with the faith I want my children to learn. It amounts to a weak inoculation against religion, not a supplement for inadequate training in the home and church.

Concern that we are not teaching religion to our children undoubtedly accounts for much of the emotional intensity in the demand that prayers be recited in public schools. But overshadowing that concern is the panic we feel in sensing that national values are being eroded.

Despite the First Amendment, it has long been important in America to make a connection between religion and patriotism. We have inscribed "In God We Trust" on our coins. We have incorporated "Under God" into the Pledge of Allegiance. We have sung "God Bless America" and "Praise the Lord and Pass the Ammunition," and we have told ourselves that God is on our side.

Two questions arise concerning the appropriateness of emphasizing religion in an effort to increase support for governmental institutions.

The first is that independence from the state has long been a part of our religious heritage. Certainly Jeremiah did not go out of his way to make the faith acceptable to the king. Similarly, the early martyrs of Christianity were put to death because they refused to show even symbolic support for Caesar by placing a pinch of incense on the altar of state religion. Why then should religion today be manipulated for wholly secular purposes?

The second question is whether such a vapid religion as expressed in the form of a non-denominational prayer would have enough substance to provide any benefit whatever to educational or governmental institutions. Frankly, I do not believe it would.

It is my own view that the kind of prayer which would be offered in public schools is devoid of theological content and does not further the religious development of children. In sum, I believe that such prayers tend to cheapen rather than enhance our religious heritage.

Let us then begin to take our own responsibilities seriously as custodians of the faith. Let us not be willing to yield this responsibility to the state.

[From St. Louis Review (Archdiocesan Weekly), Oct. 15, 1971]

PRAYER IN PARKS AND IN SCHOOL

If a pending court case concludes by rigidly applying the separation of church and state doctrine to our public parks, new signs may read "please do not pray on the grass." If Representative Chalmers P. Wylie's (Rep. Ohio) prayer amendment passes through Congress and three-fourths of the state legislatures, "nondenominational" prayer in public schools will be free from the restrictions of the 1962 New York Regents prayer decision of the Supreme Court. While we believe that nature's sanctuaries appropriately invoke the sacred, we seriously question turning the public school podium into a prie-dieu.

Nondenominational prayers commissioned or authored by public school officials would involve the state in a form of religious instruction which would aspire to create a momentary religious climate in the classroom. Regardless of the worthiness and need for prayerful school children, public schools with captive audiences would violate freedom of religion by injecting prayers into their instructional routine. The proposed nondenominational character of such prayers appears fictional as history clearly illustrates that the majority denominations tend to dominate the prayer-making process. For example, immigrant minority Catholics were offended by Protestant bible reading in 19th century public schools.

If a group of public school students would initiate a moment of prayer at some free time during the day then the fact that they are on public property should not obstruct them. Prayer in the public parks rests upon the same principle. The park service has no business officially endorsing a specific prayer, but neither would the public character of its property be violated if a group initiates a prayer service which respects the rights of others.

We agree with the late Supreme Court Justice Hugo Black when he stated that the "wall between church and state . . . must be kept high and impregnable." However, to build walls where there is no chance of church-state unity appears to us as not only contrary to common sense but as a ludicrous legalism.

Christopher Kauffman.

[From the Newark (N.J.) Star Ledger, Oct. 3, 1971]

REGRETTABLE REVIVAL

Seven years ago the U.S. Supreme Court banned prayers in public schools on grounds they violated the Constitutional provision that prohibits the establishment of any religion by the state or its publicly supported institutions.

At the same time, the court held that school prayer abridged 14th Amendment protection of an individual's constitutional rights, the freedom from religious coercion. These rulings had sound constitutional validity, supporting the doctrine of separation of church and state.

While these rulings may not reflect popular opinion in some sectors, they stand as the law of the land. Unfortunately, the controversy has been revived by the House action in over-riding its Judiciary Committee by a bare majority to lift the ban on school prayer.

Under the House measure, the amendment is worded to get around the two Supreme Court rulings by having nondenominational school prayers. But it is pertinent to note that the major religious faiths have never been able to achieve a consensus on a definition of nondenominational observance.

It would mean the creation of these rituals would be assigned to non-religious sources, such as school authorities. These ecclesiastical powers belong to the church; they should not be politicized and exploited to circumvent constitutional strictures.

Last year, the New Jersey Supreme Court ruled a school prayer program in the Netcong High School, where a brief, nondenominational prayer used in the U.S. Senate was read, was unconstitutional. In a unanimous decision, the court said it found "no meaningful difference between the program involved in this case and programs which the U.S. Supreme Court held to violate the establishment clause of the First Amendment."

The House action is highly regrettable; it revives a controversy that created bitter, emotional divisions in our society and seeks to dilute clear cut, constitutional guarantees against intrusion on individual rights and the separation of state and church doctrine. The banning of school prayer does not deprive youngsters of the right to pray, which more properly belongs in the church and home, an atmosphere that reflects in a close and personal context each individual's and family's faith.

[From the Fort Wayne Journal-Gazette, Oct. 29, 1971]

PRAYER IN THE PUBLIC SCHOOLS

The effort to amend the Constitution and reinstate school prayers, however well-intentioned, may fail under the sheer weight of its contradictions and fallacies.

The proposed amendment is a reaction to Supreme Court decisions of the early 1960s against both Bible readings and prayers in the public schools. It has been bottled up in a House committee for a number of years, but will come to a floor vote next month. The fervor that managed to blast the measure out of committee with a discharge petition now shows signs of cooling in the face of the realities and complications.

First, the idea of attempting to amend the Constitution to neutralize or reverse unpopular Supreme Court decisions is something of an anathema in itself. The idea found expression in the drive by former Sen. Everett Dirksen to call a Constitutional convention to overturn the high court's decree on one-man, one-vote divisions for state legislatures. There also have been threats for another amendment to make the court retreat from its position on busing for school integration. The constant dabbling with Constitutional amendments for specific causes is an invitation to a mimeographed document with a different version for each pressure group.

The amendment, offered in the name of religious freedom, has the notable distinction of being opposed by a broad section of religious leaders who believe it would have just the opposite effect. In calling for the right of persons to participate in "nondenominational" prayer, the amendment clearly would require even more direct court intervention and interpretation, which the proponents themselves find objectionable. The amendment makes no attempt to define "nondenominational." Religious leaders themselves have never been able to reach a consensus on what that means or what form it should take, and the court again would be handed the problem.

The school prayer campaign essentially is an admirably motivated but inadequately considered effort that can only result in disappointment even if it succeeds. It is asking the public schools to set a moral tone that parents are unwilling or are failing to provide. The results are likely to be neither what the parents have in mind, nor what their children really need.

[From the Boston Globe]

A PERNICIOUS MEASURE—PRAYER AMENDMENT WOULD ERODE LIBERTY, NOT ENHANCE IT

In 1963 the Supreme Court of the United States ruled in two companion cases that prescribed public school bible readings and recitations of the Lord's Prayer were unconstitutional. Such activities, the court held, were in violation of the First Amendment's prohibition against the making of any laws "respecting an establishment of religion."

In some quarters the decisions were taken as violations of the right of free exercise of religion, a right supposedly protected by the very same First Amendment. The court was widely reviled as "Godless" and hostile to the cause of religion. But careful analysis showed otherwise. Not only had the court been extremely solicitous of the right of the free exercise of religion in other cases, but it had made it clear that government had no business favoring one religion over others, thereby depriving adherents of the others of their own freedom of worship as they saw it.

What the court struck down in the bible-reading and Lord's Prayer cases was not anyone's rights to engage in these particular forms of religious worship. Citizens and groups remained totally free to read from the bible and say prayers in their churches, their homes, and other places where these activities did not impinge on the religious freedom of contrary-minded citizens.

But the public schools, the court said in effect, should be neutral ground. Supported by taxpayers of all sorts of religious (and non-religious) persuasions, these schools ought not to be used as forums for the advancement of any particular faith.

Indeed, supporters of the Supreme Court asked what happens to the school child, taught to revere the Koran or the Torah, when the bible is read or the Lord's Prayer is recited in his classroom? Is he not confronted with the Hobson's choice of joining in the ceremony or being stigmatized as "different" by his classmates? And in either case is he not compelled to suffer an infringement of his freedom of religion?

Moreover, would not bible readings and prayer recitations in the public schools stir up all kinds of religious divisiveness in society, making parents angry wherever their children were put under pressure to subject themselves to religious exercise of a kind other than those of their own choice? Nor, argued the court's supporters, would a "nonsectarian" exercise be right. Propagation of such a faith, as one observer has said, would be "a regression to Constantinianism. If not to the emperor-cult of pagan Rome, where a single attenuated religion was the universal test of civic belonging."

Ever since the bible-reading and prayer decisions of the court were handed down, the Congress has resisted efforts to have it approve a proposed constitutional amendment nullifying these decisions. But now proponents of such an amendment have secured enough signatures to force a vote on the issue on the House floor as early as Nov. 8.

The amendment would specifically authorize "nondenominational prayer" in publicly-supported buildings by persons lawfully assembled there. This is a pernicious measure. It would have the effect of diminishing, not enhancing, religious liberty in the Nation. And even worse, it would represent a tempting precedent for similar diminishment of all the other Bill of Rights freedoms which serve collectively to distinguish our society from those where tyranny, whether of the left or of the right, holds sway.

MORE SUPPORT FOR PRAYER

Mr. WYLIE. Mr. Speaker. I would like to take this opportunity to list more organizations which have indicated their support for House Joint Resolution 191. The list is as follows:

Assemblies of God.
Baptist General Conference.
Brethren in Christ.
Christian Church of North America.
Christian and Missionary Alliance.
Christian Union.
Church of God (Cleveland, Tenn.).
Church of the United Brethren in Christ.
Churches of Christ in Christian Union.
Conservative Congregational Christian Conference.
Elim Missionary Assemblies.
Evangelical Church of North America.
Evangelical Congregational Church.
Evangelical Free Church of America.
Evangelical Mennonite Church.
Free Methodist Church.
General Conference of the Brethren Church.
Holiness Methodist Church.
International Church of the Foursquare Gospel.
International Pentecostal Assemblies.
Kansas Yearly Meeting of Friends.
Mennonite Brethren Church.
Midwest Congregational Christian Fellowship.
Missionary Church.
National Association of Free Will Baptists.
Ohio Yearly Meeting of Friends.
Open Bible Standard Churches.
Oregon Yearly Meeting of Friends.
Pentecostal Church of Christ.
Pentecostal Church of God.
Pentecostal Evangelical Church.
Pentecostal Holiness Church.
Primitive Methodist Church.
Reformed Presbyterian Church of North America.
Rocky Mountain Yearly Meeting of Friends.
United Fundamentalist Church
Wesleyan Church.
American Council of Christian Churches of California.

The National Association of Evangelicals, representing 38,000 churches, has passed a resolution supporting House Joint Resolution 191. This is indicative of the broad support which my amendment is receiving among churches and church leaders.

The resolution reads in part:

Because the main purpose of this amendment has not been clearly understood, much confusion has arisen. The sole issue of this legislation is the exercise of freedom. It is not a question of whether people should or should not pray, or how they pray, but their freedom to pray.

The Supreme Court has ruled out private or corporate prayer in public schools, even out of school hours with no school personnel involved with no compulsion on anyone.

If enacted, the proposed amendment will restore the freedom of persons to pray in public places where appropriate. It will leave absolutely undisturbed the freedoms secured by the First Amendment and the entire Bill of Rights.

I include the following:

[From the CONGRESSIONAL RECORD, Oct. 1, 1971]

STATEMENT OF CHURCHES AND RELIGIOUS ENTITIES IN SUPPORT OF THE PROPOSED CONSTITUTIONAL PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, recently, every Member of the House of Representatives received in the mail a "Statement of opposition to proposed constitutional prayer

amendments. It was also inserted in the CONGRESSIONAL RECORD on September 20, 1971. The correspondence was signed by various religious groups and leaders and expressed their opposition to House Joint Resolution 191, proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings.

Many clergymen, religious entities, civic organizations wholeheartedly endorse a prayer amendment to the Constitution. An analysis of the broad based support for the prayer amendment is contained in a recent publication prepared by "Citizens for Public Prayer," a nonsectarian, nonpartisan group. I commend this information to the Members for careful study.

SUPPORT FOR CIVIL RIGHT OF FREE PRAYER IS NATIONWIDE

One of the most wonderful aspects in the national drive to repeal the Supreme Court's two tragic prayer-ban decisions (1962 and 1963) is the survival of a massive public will for repeal. Despite the incredible silence of some so-called "religious leaders" and the open opposition of others, Americans everywhere have persisted in their conviction that the Court was very seriously wrong and that only a radical reversal of its majority conclusions can suffice to make safe again the civil right of public reverence in these United States.

"Religious leaders" who oppose a carefully worded prayer amendment are in most cases, we are certain from our long experience of the situation, *generals without armies*. There are, however, a number of religious leaders and organizations which do support free prayer in our public schools. Among them:

1. Dr. Billy Graham.
2. Patrick Cardinal O'Boyle (DC).
3. The North Carolina Baptist Convention.
4. Bishop Fulton J. Sheen.
5. The National Council of Catholic Youth.
6. Professor Charles E. Rice (Notre Dame).
7. Very Rev. Theodore Hesburgh (Notre Dame).
8. Nat. Association of Evangelicals.
9. Orthodox Greek Diocese of N. America.
10. Dioc. Council of Cath. Women (Pitts).
11. Dioc. C. of Cath. Women (Worcester).
12. Dioc. Council of Cath. Women (Buffalo).
13. Bishop Bernard J. Flanagan (Worcester).
14. Daughters of Isabella (RC).

Among other organizations supporting free prayer in public schools are:

1. The National JAYCEES.
2. Veterans of Foreign Wars.
3. The American Legion.
4. The legislature of Massachusetts.
5. The legislature of Maryland.
6. The legislature of North Carolina.
7. The legislature of Louisiana.
8. Nat. Federation of GOP Women.
9. National Kiwanis.
10. Nat. Conference of Mayors.
11. Nat. Conference of Governors.

Other indications of the massive public will for amendment are:

1. In the first official referendum on school prayer, on the Maryland ballot in November of 1970, 73% voted for amendment despite the tacit opposition of a popular governor who was overwhelmingly reelected and the absence of any organized campaign to win votes.

2. The latest Congressional poll of a home district on the subject of school prayer, announced by Congressman J. Irving Whalley of Pennsylvania on 21 July 1971, shows 94% in favor of free school prayer.

3. An Opinion Research national poll conducted for The Advocates TV program in January and February of 1971 shows upwards of 80% across America united in support of free school prayer, with majorities in each of the major faith groups.

4. Polls by Gallup, Harris, "Good Housekeeping" magazine, and numerous local and regional news media show, unanimously, a massive will for reversal of the Court.

5. One Congressional staffer, from Connecticut, told CPP that "in my eight years on the Hill, here, no subject has so motivated our district to political awareness as the subject of free school prayer." Another, from Maine, told CPP that his office had received "an unprecedented volume of mail on this matter." Senator Dirksen, who led the fight in the Senate at one point, described his mail as "king size."

Speaking to the Congressional First Friday Club in the Rayburn House Office Building on 10 September 1971, the National Coordinator of Citizens for Public Prayer, Rev. Robert G. Howes said in part:

It has been said there is no power like the power of an idea whose time has come. We are convinced that the idea of a national rededication to the principles of our foundation has come and that no better means to assure this exists than through ratification of a peoples amendment for public prayer.

[From the Congressional Record, Oct. 6, 1971]

PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, I respectfully take issue with the statement issued by a group of church leaders and Congressmen that my amendment "would alter the Bill of Rights for the first time in the Nation's history and would threaten religious freedom."

Sixteen amendments have been added to the Constitution since the adoption of the first 10 amendments. Each has been in the nature of a clarifying amendment as to basic fundamental rights.

For 171 years constitutional lawyers and people across this great Nation alike thought the first amendment clause "Congress shall make no law respecting an establishment of religion" meant exactly that. It was understood that the establishment of a religion meant the setting up or recognition of a state church or the conferring upon one church special favors denied to others. The word religion presupposed, for constitutional purposes, that a belief in God was the common denominator of all religions. The first amendment was designed to compel neutrality among religious sects. It was never contemplated that this clause would be tortured into compelling neutrality between religions which profess a faith in God and non-theistic religions or theism.

How can the language of my amendment "legalize a kind of religion?" It specifically says nondenominational which means without reference to a particular religious faith or sect.

In the Engel case, decided by the Supreme Court in 1962, the Court held:

"State officials may not compose an official state prayer and require that it be recited in the public schools of the state at the beginning of each day—even if the prayer is denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited. The prayer in question was 'Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.'"

I think the decision was constitutionally wrong as an erroneous application of the doctrine of neutrality. The Court found the prayer to be denominationally neutral. In my judgment that meets the test of the establishment clause.

In the Stein against Oshinsky decision in 1965, the Supreme Court had a beautiful opportunity to clarify this whole situation. But, the court denied certiorari leaving the court of appeals' decision to stand. There students had asked to be allowed to initiate a prayer period on their own for those who wished to participate. The principal refused. A group of parents brought action to enjoin school officials from preventing recitation of prayers on the children's initiation. The Court held:

"The constitutional rights to free exercise of religion and to freedom of speech do not require a state to permit 'student-initiated' prayers in public schools; the Court of Appeals would direct judgment dismissing the complaint. The prayer they recited: 'Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything.'"

My amendment is clarifying in nature only and could not alter the meaning of the Bill of Rights one whit.

Of course, prayers are being recited in schools across the Nation. They are being recited in schools in my district. But, the persons involved believe they are acting unconstitutionally in view of the Court decisions. My amendment would say that a recognition of a Supreme Deity is perfectly proper and is a basic constitutional right as the framers of the first amendment intended. If, as Bishop John Wesley Lord said, "voluntary prayers may be said and are being said," my amendment would say only that it is right and proper and his argument falls of its own weight. My amendment would only write into the Constitution a practice which he feels is proper according to the first amendment. How does that alter the Bill of Rights?

[From the CONGRESSIONAL RECORD, Oct. 21, 1971]

RETORT TO PRAYER AMENDMENT OPPOSITION

Mr. WYLIE. Mr. Speaker, it is difficult for me to understand why certain ministers, of all people, are opposed to a constitutional amendment which would guarantee the right of prayer in public schools. Not all ministers are opposed to the amendment. I have received letters from many more than 38 who favor it. I do not question the sincerity nor the motives of those who oppose it, but I say unequivocally that they are misinformed about the meaning of this amendment and are guilty of not recognizing that in a democracy, the people govern. They are in apparent total ignorance of the will of the majority of the people. The people of the United States are determined to have their way on this issue.

On the one hand, it is suggested that the amendment would allow for no more than can be done now in public schools. If this be the case, then the amendment is needed to see that there is no further erosion of this basic fundamental right. On the other hand, opposition has been expressed that because of the separation of church and state argument prayer should not be allowed in schools.

There has not been a single case decided since the Engel case in 1962 which has permitted any practice which would indicate a tolerance toward voluntary prayer in public schools. In one case after another, students have been prevented from reading a voluntary prayer, from reading prayers from the CONGRESSIONAL RECORD, from singing the last verse of "America" because it mentions God, and—yes—even from saying the Pledge of Allegiance because of the phrase "one nation, under God."

In a democracy, the people govern. I noted in the CONGRESSIONAL RECORD for October 19, 1971, a statement by the Honorable J. GLENN BEALL, JR., Senator from Maryland, in which he publishes the results of polls on this issue beginning in August 1962 through February 1971. The results of these polls show that from 73 percent to 91.5 percent of the American people overwhelmingly favor the civil right of free school prayer, depending on the form of the question. In my own hometown of Columbus, Ohio, said to be a typical American community, a poll taken by ABC–TV on this question revealed that 91.5 percent said prayer should be permitted in public schools.

In the same edition of the CONGRESSIONAL

RECORD, Senator HUGH SCOTT refers to a petition containing signatures of 5,000 residents from Bedford, and Everett, Pa., in support of a proposed constitutional amendment to allow voluntary prayer and Bible reading in public schools. Senator SCOTT says:

I was particularly heartened to learn that this wonderful expression of support was due in large part to the efforts of David Crawford, a 17-year-old student from Everett High School.

The people of the United States are determined to have their way on this issue as evidenced by the thousands of letters and petitions which I have received in my office since I filed the discharge petition.

[From the CONGRESSIONAL RECORD, Oct. 27, 1971]

A PETITION FOR PUBLIC PRAYER

Mr. WYLIE. Mr. Speaker, this morning I received another petition for public prayer addressed to all U.S. Representatives. The petition states:

We, the undesigned and deeply concerned citizens of the United States, in cooperation with Mrs. Ben Ruhlin's Prayer Campaign Committee, prayerfully request that each Member of the U.S. House of Representatives vote for the Joint Resolution No. H.J. Res. 191—authored by Congressman CHALMERS WYLIE, Republican of Ohio—on November 8, 1971. This resolution proposes an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings.

The name and address of the organization circulating the petition is the Fort Wayne Bible College, 1025 West Rudisill Boulevard, Fort Wayne, Ind., and contains 321 names.

[From the Congessional Record, Oct. 27, 1971]

SCHOOL PRAYER ISSUE REKINDLED—SUPPORT GROWS FOR CONSTITUTIONAL AMENDMENT

Mr. WYLIE. Mr. Speaker, letters have come in, in great volume from all over the United States in support of a constitutional amendment which would assure prayer in public schools.

A headline appearing in the Arizona Republic rather sums up public reaction. The headline read "School Prayer Issue Rekindled—Support Grows for Constitutional Amendment."

Among the letters I have received is one from Miss Helen Chan, of Provincetown, Mass., which I hope all Members of Congress will read. It says a great deal.

The letter follows:

PROVINCETOWN, MASS.,
September 23, 1971.

DEAR MR. WYLIE: I listened to WEEI this past Thursday evening while you presented your program to reinstitute Prayer in school, and to several of the people who phoned. For the time I could listen, it seemed that your cause was assailed by Devil's Advocates, and not too much helped by what the Queen in Camelot referred to as "the simple people"—churched but not too well schooled. From what one hears on WEEI one has the suspicion that Boston abounds with just those two opposites. The well-intentioned but not too well informed, and the informed to a degree on the shallow, specious side; and not at all well intentioned. Too often the latter are fiendishly articulate.

Falling somewhere between these two prevailing categories, I do want to assure you that your statistic of 80 per cent on the side of Prayers again would include many like myself; not reached by polls, not given to loud acclaiming over the phone. There must be many such; quiet, inclined to be devout, often unchurched, and therefore all the more aware that religion is not so much a matter of a service on Sunday as a constant, daily effort to "Do unto others . . ." plus a realistic awareness of our dependence on the Grace of a Supreme Diety, and full hearted gratitude for help and blessings bestowed . . . if we are but humble enough to notice them. I might add that in my own case I suffer a sense of shame for living in a country which makes sure God is mentioned on our money, calls on Him in times of war, but will not allow Him in the schools where the children are!

The minister-school-teacher struck me as so typical of the type of mind that thinks it thinks, and can be so all-fired glib and confident. Of such are school teachers who turn off the Young in droves! They are much aware that there is more in the Reality of Life than meets the eye. He mentioned something about there being far more compelling issues for a Congressman to busy himself about. As if there could be anything more compelling than an abiding realization that this Universe did not just happen: out of chaos it was Created. Scientists of any true stature are aware of the marvel of intricate symbiosis that is the evolutionary process. Teilhard de Chardin, the mystic-paleontologist, made it all clear in his "The Phenomenon of Man." This is the man the serious Young are reading!

There is one point that is rarely touched on in this prime need to bear witness to Faith in God . . . Jehovah . . . Buddha . . Krishna . . Mohammed . . . which ever the many names of the All Pervading Creative Force. And that is in this objection that all such teaching, praying, bearing witness, "should" go on at home or in churches.

The stark fact is that in these materialistic, technocratic, hedonistic times there is no such teaching by the parents who are equally remiss in sending their children to church. Very much then, if it is not offered at all in the schools, there will never be, anywhere in all their formative years, that guiding influence that makes children aware of the Reality behind all being. To have the spiritual aspects of our nature totally neglected is worse than any crippling, any deprivation, any disadvantaging. Every last one of us needs constantly to be reminded of our Source. One thing is certain, if we have not the saving grace of gratitude in us for Life itself, we can not have it for parents, country . . . which means no capacity for kindness, love, loyalty . . . all the attributes that are part of our own evolution from animal to man to our destiny: Divinity.

God Bless!

HELEN CHAN.

[From the Congressional Record, Oct. 27, 1971]

PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, a recent letter written by the Honorable JOHN E. HUNT to Rev. M. M. Billman in his district eloquently states some of the merits and reasons in favor of the amendment which would permit nondenominational prayer in public schools. I commend this letter to my colleagues' attention:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 22, 1971.

Rev. M. M. BILLMAN,
Camden, N.J.

DEAR REVEREND BILLMAN: This will acknowledge the materials you sent opposing the proposed amendment to the Constitution that would permit the recitation of voluntary, nondenominational prayer in the public schools.

I would first point out that I am a sponsor of such a proposal and I did sign the petition to discharge the House Judiciary Committee from further consideration of the legislation. In consideration of the broad and unrestricted religious freedom we enjoy and our religious heritage, I find it difficult to believe that "separation of church and state" was intended to mean that our children could not participate in voluntary prayer exercises in school. I am not troubled by the Supreme Court decisions which say that no official, governmental body can formulate and dictate any particular prayer that might be observed, but I find the Court's construction of "state neutrality" more than strained when students are forbidden to voluntarily assemble on school grounds, prior to regular school hours, to participate in a reading of the daily prayer that appears in the Congressional Record.

It is stated in one of the enclosures you sent that "These factors combine to operate with indirect coercive force on young and impressionable children to induce them to take part in these exercises, despite a freedom to be excused from participation." It is these same young and impressionable children who, I believe, in the absence of the right insured by the proposed amendment, will have indelibly etched in their minds the hyprocisy of an adult world, observing daily prayer in its highest institutions of government, that denies its youth of the opportunity to *participate* in this same type of observance. The young as well as a large number of responsible adult citizens have been unable to grasp the subtle distinctions if, in fact, there are any of substance.

The Constitution provides for amendments and, as you are well aware, the process is very tedious. Even should the proposed amendment be approved by a two-thirds vote of both the House and Senate, it would then have to be ratified by three-quarters of the State legislatures. I have no hesitation in expressing my belief that the controversy that was stirred in this field by the U.S. Supreme Court, revived repeatedly as school boards, States, churches, and lower courts strain with a myriad of interpretations of the Supreme Court's intent, more than justify taking the debate to the people and to the State legislatures which represent them. If it is feared that the proposed amendment will eventually result in widespread, acrimonious controversy and litigation—as the statement you enclosed indicates—my greater fear is that the evil that has pursued the confusion emanating from the Supreme Court's prayer decisions might go unchecked.

I have confidence in the constitutional amendment process and its safeguards against hasty action. At the same time, I have great faith in the ability of our people to meet the challenge of intelligent debate on the issues and to decide wisely. It is apparent that the religious leaders who now oppose this move are the prophetic generals without their armies. They have failed to alleviate the widespread disagreement with the Supreme Court's interpretations of the First Amendment which they (religious leaders) believe is the product of misunderstanding. It is indeed ironic that almost 10 years after the Supreme Court's first prayer decision, it was not until Congressman Wylie's discharge petition was signed by the requisite number of 218 Members on September 21, 1971, that I received the very first repudiations of the proposed amendment from scattered members of the clergy. Frankly, I am not swayed in my belief that the debate on the Prayer Amendment should now be taken to the people, and that will be accomplished by the submission of the amendment to the State legislatures upon the approval of two-thirds of the Members of the House and Senate.

Sincerely yours,

JOHN E. HUNT,
Member of Congress.

[From the CONGRESSIONAL RECORD, Oct. 27, 1971]

MORE SUPPORT FOR WYLIE PRAYER AMENDMENT

Mr. HUNT. Mr. Speaker, indicative of the widespread support of the so-called Wylie resolution—proposing a constitutional amendment to permit the recitation of voluntary, nondenominational prayer in public buildings—I would like to call to the attention of my colleagues the resolution recently adopted by the messengers of the Garden State Fellowship of Regular Baptist Churches at their annual meeting.

The Garden State Fellowship, inciden-

tally, is the New Jersey State Fellowship in association with the General Association of Regular Baptist Churches located in Des Plaines, Ill. The latter consists of 1,450 local Baptist Churches which believe in the Bible and teach that salvation is by faith in Jesus Christ as the Personal Savior. The Garden State Fellowship consists of about 45 local Baptist Churches throughout the State of New Jersey.

The resolution follows:

RESOLUTION

Whereas, there is at present a Bill before the United States House of Representatives to provide for a Constitutional Amendment allowing resumption of prayer in the public schools of our land, and

Whereas, we have always lamented the removal of prayer and Bible reading from our schools, therefore, be it

Resolved, that we, the Messengers of the Churches in fellowship with the Garden State Fellowship of Regular Baptist Churches, meeting at Caldwell, New Jersey, on this 28th Day of September, 1971, call upon the legislators in the United States House of Representatives, and, pending passage by that body, those in the United States Senate, from our State, to vote for the proposed amendment to the Constitution of the United States, and, be it further

Resolved, that we commend Representative Wylie and others who support the Bill for their interest and leadership in promoting the return of prayer to our schools, and, be it further

Resolved, that we call upon those legislators who are in favor of the return of prayer to our schools to press also for the return of the Bible to our public schools, especially in these days of youthful rebellion, which we believe is directly traceable to the removal of prayer and Bible reading from the schools of our land, and that we pledge to such legislators our prayers and support in this vital undertaking.

[From the CONGRESSIONAL RECORD, Oct. 28, 1971]

NATIONWIDE SUPPORT FOR PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, several hundred letters have come into my office recently supporting House Joint Resolution 191, the amendment to permit nondenominational prayer in public schools. Four deserve to be given special attention because they demonstrate support among church leaders and public school officials.

The first letter is from the members of the Town Hill Methodist Church in Pennsylvania and is accompanied by a petition supporting nondenominational prayer in public schools. The second is from a Lutheran pastor in Toledo, Ohio, indicating his support and the support of his congregation for the amendment.

The third letter is from a retired professor of philosophy and religion. Enclosed with it is a statement, adopted by the Presbytery of Shenango which reflects my own views on this issue.

The fourth letter is in the form of a resolution adopted by the school committee of Cambridge, Mass., the governing body of the public school system of the city of Cambridge, endorsing this amendment.

The letters follow:

THE TOWN HILL
UNITED METHODIST CHURCH,
Shickshinny, Pa., October 18, 1971.

The Hon. CHALMERS P. WYLIE,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN WYLIE: The enclosed petitions were signed by adult members of The Town Hill United Methodist Church seeking to voice their opinion in favor of restoration of non-denominational prayers to the public schools of this country.

We are aware that many church leaders professing to represent us are in opposition to this matter, therefore, we desire to voice our own opinion.

Thank you for taking the time to review the letter and our petitions, and we trust that you will give due consideration to them.

Sincerely,

WILLIAM L. PRICE.

GOOD SHEPHERD LUTHERAN CHURCH,
Toledo, Ohio, October 19, 1971.

Hon CHALMERS P. WYLIE,
Washington, D.C.

DEAR MR. WYLIE: You have our wholehearted endorsement in proposing the prayer amendment to the U.S. Constitution. It is high time that we as Christians speak up for our rights and privileges and promote that which has made us a great Nation, a trust in God. It is through prayer that we approach the guiding hand of God for our Nation.

I want you to know that the majority of my congregation does not agree with the objection raised by an official of the Lutheran Council in the U.S.A. Whoever it is has strictly spoken for himself and not by a popular vote of the congregations of the church body.

We lend you our support and our prayers.

Yours on the upward trail in Christ,

O. H. BERTRAM.

GROVE CITY COLLEGE,
Grove City, Pa., October 21, 1971.

Hon. CHALMERS P. WYLIE,
Member of Congress, House Office Building,
Washington, D.C.

DEAR SIR: According to the newspaper you said in reference to recent statements by some top church officials opposing the prayer amendment, "Some of the ministers are giving me a little bit of a problem".

The enclosed statement, adopted by our Presbytery in 1964, should reassure you that many of us as well as laymen are solidly behind you. We are glad you are sponsoring the amendment. You are doing the country a distinct service.

Faithfully yours,

PETER H. MONSMA.

A STATEMENT ON THE RELATION OF CHURCH AND STATE AND OF RELIGION AND EDUCATION*

Though our opinions differ concerning both the legality and the desirability of classroom religious programs in the public schools, we, the members of the Presbytery of Shenango of the United Presbyterian Church in the United States of America, feel impelled to register our concern lest recent Supreme Court rulings prohibiting States from ordering such practices be interpreted—by the Court or by others—as favoring a secular philosophy of government which is inherently hostile to theistic attitudes and practices.

We wish to reaffirm the historic position of our nation and of our church with regard to separation of church and state as organized institutions of society. We do not believe there should be an interlocking of church and state governments, nor dominance of either by the other, nor the granting by the state of official sanction or standing to any religious group. But we do not believe such separation of church and state demands a secular attitude or position on the part of the government in its own activities; nor do we believe that the establishment clause of the First Amendment to our Constitution means to rule out theistic attitudes and positions in favor of secular ones on the part of the government.

As the Presbytery sees it, from the days of the Founding Fathers a distinction has been assumed between an establishment of religion by the government for the private lives of its citizens and the religious character of its own activities. This seems clear from the Declaration of Independence, in which our forefathers appealed to the Supreme Judge of the world for the rectitude of their intentions, as well as from such legislative actions as the adoption of a theistic national anthem, the ordering of a theistic motto on our coins, and the theistic amendment of the pledge of allegiance to the flag. It is also clear from such appeals to God for assistance, guidance, and blessing as all our Presidents have made upon assuming office, from the annual Thanksgiving Day Proclamation, and many religiously inspired declarations and actions by government officials across the years.

In this connection, the Presbytery believes Mr. Justice Stewart correctly distinguishes between the established churches in sixteenth century England and eighteenth century America and the religious tradition of our people, reflected in countless practices of the institutions and officials of our government. The quarrels over the Book of Common Prayer in England and the history of the early establishment of an official church in our own States were instances of the government extending its functions to organized religion in a state or nation and prescribing features of it, not instances of the government's own religious position and observances in other functions and pursuits recognized as properly within its province.

We would further observe that though a government can maintain a position of neutrality in its dealings with religious movements and organizations, it can hardly be religiously neutral in its own sponsored activities. This seems especially true in the field of education. It is true, "worldly wisdom" in the sense of prudence and the mastery of various arts and sciences can be taught without specific religious implications. But when questions concerning the justification of moral principles, the nature of truth, and the explanation of existence arise, education enters the sphere of philosophy and religion, and here answers are inescapably placed in either a theistic, a skeptical, or a non-theistic framework. Obviously none of these answers can properly be described as "neutral", for the first affirms, the second questions, and the third slights or denies the relevance God has to life's beginning and to its meaning, goals, and values.

For the government through its schools to foster a skeptical or a non-theistic world view is to counteract our traditional faith and hence to undermine the moral and spiritual foundations upon which this nation was established. A broad theism may not be an adequate religion, but it is basic and important.

While as a Presbytery we stand opposed to narrowly sectarian teaching in our public schools, we do not believe that the reverent faith in a Supreme Being that has prevailed in our nation and its schools in the past should be illegalized and replaced by a non-theistic or a skeptical point of view. This would, to a marked degree, deprive the vast majority of our citizens of the free exercise of their religion and militate against the faith that as none other will prepare our children to live their lives effectively and well in a free land and to transmit their heritage unimpaired to posterity.

Our late President, John F. Kennedy, on the fateful day of his assassination, was to have delivered an address concluding with the Biblical admonition (also quoted by Benjamin Franklin at the Constitutional Convention in Philadelphia), "Except the Lord build the house, they labor in vain that build it: except the Lord keep the city, the watchman waketh but in vain" (Psalm 127:1). The distinguished historian Arnold J. Toynbee has observed that this verse succinctly summarizes the history of civilization. It is indeed a matter of record that the pathway of

*Adopted by the Presbytery of Shenango at its meeting in New Castle, Pa., January 28, 1964.

history is strewn with the wreckage of those nations which have ignored its warning.

SCHOOL COMMITTEE,
Cambridge, Mass., October 19, 1971.

Resolved: That the School Committee go on record as endorsing a bill introduced in the United States Congress by Representative Chalmers P. Wylie (R. Ohio) calling for a "Constitutional change to allow non-denominational prayer in public places such as schools."

A true copy.
Attest:

JOHN R. MCCARTHY,
Temporay Secretary of the School Committee.

LET US PRAY—AN AMENDMENT TO THE CONSTITUTION

Mr. WYLIE. Mr. Speaker, since becoming involved in the school prayer issue, I have read voluminous amounts of material on the subject. The most meaningful and persuasive arguments for me in favor of a constitutional amendment were presented in the Law Review article written by Charles E. Rice, Professor of Law, Notre Dame Law School, University of Notre Dame.

I especially urge my colleagues in the House to read it. Whether you agree with it or not, I think you will all concur that Professor Rice has written a very scholarly review which deserves thoughtful appraisal.

The article follows:

LET US PRAY—AN AMENDMENT TO THE CONSTITUTION

(By Charles E. Rice)

CONSTITUTIONALITY

The school prayer decisions were wrongly decided as a matter of constitutional law. Their basic fallacy lies in the Court's erroneous construction of the doctrine of neutrality which is implicit in the establishment clause of the first amendment. That clause reads simply, "Congress shall make no law respecting an establishment of religion. . . ." It was undeniably understood by its framers that establishment of religion "meant the setting up or recognition of a state church, or at least the conferring upon one church of special favors and advantages which are denied to others."[1] The motive for the enactment of the clause was, in the words of James Madison during a debate in the first Congress, that "the people feared one sect might obtain a preeminence, or two combine together, and establish a religion to which they would compel others to conform."[2] The goal, in a word, was to achieve governmental neutrality among religions. The word "religion," however, for constitutional purposes, presupposed that a belief in God was the common denominator of all religions. As the Supreme Court stated in 1890, "the term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will."[3] The establishment clause, therefore, was more precisely designed to ensure governmental neutrality among religious sects professing a belief in God. It was never meant to compel neutrality on the part of government as between those religions that profess a belief in God and those that do not, *i.e.*, between theistic and non-theistic religions. In the words of Mr. Justice Story, who served on the Supreme Court from 1811 to 1845, and who was himself a leading Unitarian:

> Probably at the time of the adoption of the constitution, and of the first amendment to it . . . the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state so far as was not incompatible with the private rights of conscience and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation.

The real object of the amendment was not to countenance, much less to advance, Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to a hierarchy the exclusive patronage of the national government.[4]

It was in the light of this understanding that the Supreme Court properly affirmed, in 1892, that "this is a Christian nation."[5]

This background, of course, must be considered in conjunction with its complement in the first amendment, the free exercise clause. Together, the two clauses read: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ." The free exercise clause has always protected the believer and non-believer alike against any coercion to believe in, or disbelieve, any religion. But the establishment clause, at the same time, sanctioned a governmental hospitality toward, and impartial encouragement of theistic religions.

All this, however, has now been changed. In the 1961 case of *Torcaso v. Watkins*,[6] the Supreme Court invalidated a provision of the constitution of Maryland requiring a state employee to declare his belief in God. The test, said Mr. Justice Black speaking for the Court, unconstitutionally invaded the employees' "freedom of belief and religion. . . ."[7] The requirement was invalid because "the power and authority of the State of Maryland thus is put on the side of one particular sort of believers—those who are willing to say they believe in the existence of God."[8] The Court then emphasized the right of non-theistic beliefs to protection as religions.

We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person "to profess a belief or disbelief in any religion." Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and *neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs.*[9] (Emphasis added.)

Appended to the last quoted clause was a footnote specifying that:

> "Among religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism Taoism, Ethical Culture, Secular Humanism and others."[10]

In view of this holding, it may now be said that there are two general types of religions entitled to the protection of the first amendment. On the one hand are those which profess a belief in God. For purposes of discussion, let us call them theistic, and for analysis we shall include therein both deistic and theistic beliefs in God with their variant interpretations of the nature of God and his providence. On the other hand are those non-theistic religions described in Mr. Justice Black's footnote in the *Torcaso* case. Of the four he mentioned, the two most important in contemporary terms are Ethical Culture and Secular Humanism, both of which may be called non-theistic religions in that they do not affirm the existence of God. It is reasonable also to include atheism and agnosticism, whether organized or unorganized, within the broad *Torcaso* description of non-theistic religions, since both are compatible with Ethical Culture and Secular Humanism.

It was difficult to tell whether the Court in *Torcaso* rested its decision upon the establishment clause or the free exercise clause, although it is more likely that it was the latter. In either event, today the Supreme Court has removed all doubt that the broad definition of religion applies to the establishment clause. The Court in the 1963 school prayer decision, which was based on the establishment clause, quoted approvingly the principle laid down in the *Torcaso* case, that neither a state nor the federal government "can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs."[11] The Court has now ordained, therefore, through its misconstruction of the establishment clause, that the government is required to be neutral as between the two great classes of religions, the theistic and the non-theistic.

When this erroneously imposed neutrality is coupled with the Court's tendency to view the first amendment in rigorously absolute terms, one is drawn to the conclusion that the new interpretation would plainly interdict a governmental affirmation that there is, indeed, as the Declaration of Independence affirms, a "Creator," a "Supreme Judge of the World." Thus it is that Mr. Justice Brennan, in his extensive concurring opinion in the 1963 prayer case, in which opinion he probed the consequences of the Court's ruling, could bring himself to observe that the words "under God" in the pledge of allegiance are not necessarily unconstitutional only because they "may merely recognize the historical fact that our Nation (*was believed*) *to have been founded 'under God'*"[12] (emphasis added). Presumably, if the words were construed as a present affirmation of truth, rather than a rote commemoration of a historical fact (or curiosity), they would be unconstitutional.

Actions or proceedings have been instituted to remove those words from the pledge, to invalidate governmentally-paid chaplaincies in the military services and prisons, to strike down the tax privileges enjoyed by religious organizations, and to eliminate other remaining public evidences that this is a nation which subordinates itself to God. The free-exercise-clause rights of prisoners and military personnel could well be violated unless the government, as the *Schempp* Court noted, "permits voluntary religious services to be conducted *with the use of government facilities*. . . ."[13] (Emphasis added.) It may not be rash to note that the Court's reference only to "government facilities" leaves clouded the constitutional future of chaplains themselves on the government payroll. Similarly, the religious tax privileges in question apply to the purely religious activities of churches as well as to those activities, such as teaching mathematics in parochial schools, which serve a valid secular purpose. The tax privileges are, it as fair to say, in serious jeopardy of at least partial invalidation.

Given the proclivity of the current members of the Supreme Court to adhere tenaciously to their own abstractions (which in religion cases have generally been born in gratuitous and self-generated *obiter dicta* in the Court's own opinions), and given the sweeping character of those reigning abstractions, we may fairly expect the manifestations of our religious heritage in public life to be eliminated, singly but inexorably, by judicial decree. Only a constitutional amendment can be counted upon to check the trend, for the notion of judicial self-restraint seems to have fallen out of favor among the majority of the Court.

The objection is sometimes made that, if prayer is permitted in schools or other public activities, the practices will inevitably deteriorate into a rampant sectarianism in which, for example, a communal rosary in public school would become the order of the day in a district where Roman Catholics predominate. There are ample safeguards against such excess. For one thing, the common sense and good faith of the people involved at the local level can usually be counted upon to prevent the observances from being carried to a sectarian extreme. If, however, the problem actually does arise,

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Footnotes at end of article.

and, judging from experience, it will arise infrequently if at all, the state and federal courts should deal with it on a case-by-case basis. But in so doing, the courts ought to afford a greater latitude to the local governments to solve the problem than they are now given. At what point are the courts to intervene? In terms of the establishment clause, such things as the communal rosary ought to be prohibited as overly sectarian. The Lord's Prayer and Scripture reading, however, ought to be allowed, in view of our history and tradition. Also, if the case should ever occur, a mere devotional reading from the Koran, in a public school in which Moslems predominate, should be allowed, in deference to the federal character of our government and the general practical wisdom of local control.

Operating under the free exercise clause, the courts should invalidate a local practice only when there is actual coercion upon children to participate. In this context, mere embarrassment ought not to be considered such coercion, so long as scrupulous efforts are made by the authorities to minimize such embarrassment.

In fact, a proper deference by the Supreme Court to the concept of federalism and a healthy respect by the Court for the fairness and capacity of local governments would serve to restore a proper balance in this area. The Supreme Court of the United States is ill equipped to rule in a matter such as this by uniform, centralized decree. It is not, as has often been said, a "Supreme School Board." Nor should it be.

Some opponents of an amendment maintain that the inclusion of prayers in a public school necessarily violates the free exercise of religion by children and their parents, who do not believe in God. There are four weaknesses in that argument. First, in none of the cases in question was any child actually coerced to do or say anything, and the right of non-participation was scrupulously preserved. Second, the Supreme Court did not decide the cases on the free exercise basis, but rather under the establishment clause, and it is upon the Court's interpretation of the latter clause that approval or disapproval of the rulings ought to be based. Third, even if we do consider the free exercise question, the dictates of common sense are persuasive. Dean Erwin N. Griswold of Howard Law School said it this way in a passage that is worth quoting at length:

Let us consider the Jewish child, or the Catholic child, or the nonbeliever, or the Congregationist, or the Quaker. He, either alone, or with a few or many others of his views, attends a public school, whose School District, by local action, has prescribed the Regents' prayer. When the prayer is recited, if this child or his parents feel that he cannot participate, he may stand or sit, in respectful attention, while the other children take part in the ceremony. Or he may leave the room. It is said that this is bad, because it sets him apart from other children. It is even said that there is an element of compulsion in this—what the Supreme Court has called an 'indirect coercive pressure upon religious minorities to conform.' But is this the way it should be looked at? The child of a nonconforming or minority group is, to be sure, different in his beliefs. That is what it means to be a member of a minority. Is it not desirable, and educational, for him to learn and observe this, in the atmosphere of the school—not so much that he is different, as that other children are different from him? And is it not desirable that, at the same time, he experiences and learns the fact that his difference is tolerated and accepted? No compulsion is put upon him. He need not participate. But he, too, has the opportunity to be tolerant. He allows the majority of the group to follow their own tradition, perhaps, coming to understand and to respect what they feel is significant to them.

Is his not a useful and valuable and educational and, indeed, a spiritual experience for the children of what I have called the majority group? They experience the values of their own culture; but they also see that there are others who do not accept those values, and that they are wholly tolerated in their nonacceptance. Learning tolerance for other persons, no matter how different, and respect for their beliefs, may be an important part of American education, and wholly consistent with the First Amendment. I hazard the thought that no one would think otherwise were it not for parents who take an absolutist approach to the problem, perhaps encouraged by the absolutist expressions of Justices of the Supreme Court, on and off the bench.[14]

The fourth fallacy in the free exercise objection to an amendment is that the objection overlooks the right of the majority of citizens to the free exercise of their religion. Strict neutrality between theism and nontheism, as broadly defined by the Supreme Court, is not attainable. When public officials, including school teachers, are compelled to suspend judgment in the course of their official activities on the question of whether there is a God, the effect is an official adoption to that extent of the agnostic approach. Parents and children who believe in God may properly ask why those children must attend a public school where, over their objection, the basic question of God's existence is treated in an agnostic way which is incompatible with, and offensive to, their beliefs and the basic theistic tenets upon which the Republic was nurtured.

In short, there can be no governmental neutrality between theistic and non-theistic religions in terms of the establishment clause. The perpetual suspension of judgment enjoined by the Court on the part of government as to whether there is a God is in reality a mere replacement of the traditional and proper theistic affirmation by a new, non-theistic orthodoxy of agnosticism—a public agnosticism which will, if embedded in our law, spawn a public policy of affirmative and militant secularism.

PRACTICAL BENEFIT

A brief comment is in order on the practical benefit to be derived from a favorable resolution of the amendment question. The issue is, essentially, "can government constitutionally recognize that there is a God?" Implicit in such recognition is an affirmation that there is a standard of right and wrong higher than the state itself. The child who routinely sees the agents of the government, be they teachers or presidents, affirm the existence and supremacy of God and His law over all is less likely to follow the demagogue who asserts for the state, and for himself as its oracle, the final power to ordain what is right and wrong in a matter of public or private morality. Moreover, an inculcation of mere ethical values without reference to their divine source cannot serve this purpose as well as an assertion of the supremacy of an unchanging lawgiver. For, if ethical precepts arise from some non-divine source such as the Constitution, a consensus or a social contract, then they can be subject to change or disregard by a totalitarian state or by a modern democracy enjoying the assent of a majority of its citizens. If we are to preserve the limited government that is the hallmark of American constitutionalism, we can hardly disregard the lesson of history that a strong assurance against governmental abuse is a citizenry devoted to ultimate values transcending the changing will of the state. It is surprising, and disappointing that some Catholic opponents of a prayer amendment have not addressed themselves to this question of the necessity of a frank acknowledgement by the state of the existence of a divine standard higher than itself. On Thomas Jefferson's Memorial there is inscribed his questioning warning: "God Who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God?"

In recent decades the schools of America have retreated from the unapologetic inculcation of love for God and country. Perhaps coincidentally, the educational philosophy of permissiveness gained supremacy during the same period. Today we are confronted with juvenile disciplinary problems of unprecedented magnitude. It is fair to say that the restoration and advancement of character will be furthered by teaching our children that there is indeed a "law of Nature and of Nature's God," which enjoins upon them a rejection of vagrant self-indulgence in favor of an ordered pursuit of a higher good.

FOOTNOTES

*Professor of Law, Notre Dame University School of Law.

[1] COOLEY, GENERAL PRINCIPLES OF CONSTITUTIONAL LAW 224–25 (1898).

[2] ANNALS OF CONG. 731 (1789) [1789–1791].

[3] Davis v. Beason, 133 U.S. 333, 342 (1890).

[4] STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES §§ 1874, 1877 (1891).

[5] Holy Trinity Church v. United States, 143 U.S. 457, 471 (1892).

[6] 367 U.S. 488 (1961).

[7] *Id.* at 496.

[8] *Id.* at 490.

[9] *Id.* at 495.

[10] *Id.* at 495 n.11.

[11] School Dist. of Abington Township v. Schempp, 374 U.S. 203, 220 (1963), quoting Torcaso v. Watkins, 367 U.S. 488, 495 (1961).

[12] *Id.* at 304.

[13] *Id.* at 226 n.10.

[14] Griswold, *Absolute Is In The Dark—A Discussion Of The Approach Of The Supreme Court To Constitutional Questions*, 8 UTAH L. REV. 167, 177 (1963).

[From the CONGRESSIONAL RECORD, Oct. 29, 1971]

SCHOOL PRAYER IS HISTORICAL

Mr. WYLIE. Mr. Speaker, on October 25, 1971, I received from Mr. George W. Archambo, of Mount Pleasant, S.C., correspondence concerning House Joint Resolution 191.

This correspondence deals with the history surrounding the adoption of the first amendment provision on freedom of religion and I commend it to the attention of my colleagues:

MOUNT PLEASANT, S.C.,
October 25, 1971.

Representative CHALMERS P. WYLIE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: I am sorry that I was not aware of your fight to put prayer back in school. As it is, I am attempting to contribute a little information, which I hope may be useful. The enclosure should speak for itself, and more in this letter.

In an old history book: Eggleston, Edward, *A History of the United States and Its People;* ca. 1890 (title page missing), p. 200:

"Before the Revolution, the Episcopal Church of England was established in the Southern Colonies, while the Congregational churches were supported by law in all the New England colonies except Rhode Island. During the Revolution, Thomas Jefferson led a movement in favor of religious freedom. Now there is no religious establishment in any part of the country, but all are free to worship in their own way. The Constitution provides that Congress shall not interfere with religious freedom. . . ."

The U.S. Supreme Court removed prayer and Bible reading from the public schools at the urgency of an atheist. Yet, this decision should not have been made, if the Supreme Court had considered the situation properly.

The above quote from Eggleston's history book shows that Jefferson led in a movement for religious freedom; and "the Constitution

provides that Congress shall not interfere with religious freedom."

"Article I. Congress shall make no law respecting an establishment of religion. . . ." The question is, "Why?" Why should such a thought have occurred in the mind of Jefferson? Simple.

Religious conditions today are similar, but probably less so, than they were some two hundred years ago. In most Latin countries the *national* religion is Roman Catholic. In most North European countries the *national* religion is Lutheran. In England the *national* religion is Episcopal; in Scotland the *national* religion was Presbyterian. In other countries around the world, *national* religions of various lands in Moslem, Hindu, Buddhist, Shinto, etc.

Thomas Jefferson's influence was apparently illustrated in the composition of the First Amendment, and this expression was that Congress was in no position to have a hand in the establishment of a *national* religion. Likewise, "Congress shall make no law prohibiting the free exercise thereof."

It should be obvious to any intelligent person that prayer and Bible reading was the accepted thing in the public schools at the time that the Amendments were ratified and adopted, November 1791. Otherwise that First Amendment would have had the effect of removing prayer and Bible reading from the school system then and there. We would not have had prayer and Bible reading in the schools during the years I attended some forty years ago. But it was the accepted thing. And there were some great Justices in the Supreme Court in those days.

To refer again to the excerpt from Eggleston's history book, it relates that before the Revolution, the Episcopal Church of England was established in the Southern Colonies, and Congregational Church was supported by law in the New England colonies except Rhode Island. This seems to manifest a *national* recognition of particular denominations. Then Jefferson stepped into the picture and "led a movement in favor of religious freedom." *"Now* there is no religious *establishment* in any part of the country."

For any person to show some sort of allegiance to God and Christ, yet manifest an interest in not wanting prayer and Bible reading in the school program, as it had been for some two hundred years, that person's religion is faulty, and certainly not that of a Bible-believer.

I hope this letter and enclosed excerpt of my paper relative to the history of Christian education will be of some value to your fight to have prayer returned to the school system. Without it the result is already manifest: degeneration of good morals, respect for law and order, respect of the young toward their elders and their parents and teachers.

Feel free to reproduce any or all of this material if you think it worthy.

Yours for prayer in the schools.

GEORGE W. ARCHAMBO.

(This is an extract from a paper I did in a course, Christian Education, at Bob Jones University. I hope it may be of some interest. George W. Archambo, October 23, 1971.)

The first schools in America were similar to the schools in the days of the Reformation. A knowledge of the Bible and an interpretation of its contents was felt necessary for salvation. This meant that children had to be taught to read. Schooling was conducted, but there was little difference between the secular and the religious.

The Massachusetts Bay Colony passed a law in 1642 to enforce the education of children. Children were to learn to read and understand the principles of religion and the capital laws of the country. The education was for the benefit of the state more than for the child, for as the child grew to manhood and became eligible for public office, he must be educated.

The first schools were called Dame Schools, being taught by the responsible women of the town. Generally, these women had some education, enough to prepare the pupils for the next school, called the "School of the Three R's." This was the common school, teaching reading, writing, and arithmetic. From here the student could go on to the Latin grammer school, which was preparation for college. This school was the forerunner of our high school.[1]

In the year 1636 the first college was established in America. A young minister died leaving 750 pounds ($3600) and a library of 300 volumes to help men for the Christian ministry. This man's name was John Harvar, the college becoming Harvard College in his honor. As time and conditions permitted, other Church sponsored colleges appeared, Yale in 1701; Princeton, 1747; Kings College (Columbia) in 1754; Rutgers, 1766; and Charity Academy (University of Pennsylvania) in 1740.

Textbooks of this era were mainly the Catechism, the psalter, and the Bible as found in the home. In 1690, the New England Primer came into existence. This was one of the greatest of published books, contributing "perhaps more than any other book except the Bible, to the molding of those sturdy generations that gave to America its liberty and its institutions." It consisted of the alphabet, the Lord's Prayer, the Apostles Creed, the shorter Catechism, an account of the martyrdom of John Rogers, and a dialogue between Christ, youth and the Devil. Eighty-seven percent of the book was made up of selections from the Bible.[2]

The First Amendment of the Constitution prohibited the federal government from establishing a national religion, therefore allowing freedom of worship. The Constitution also made no allowance for education, and since the Tenth Amendment passed on to the states such powers as were not delegated to Congress, the states assumed the power for educating its people.[3]

As the frontier moved westward, educational facilities moved with it. Most of the public schools at the first taught the Bible, but as the need for better textbooks was felt, the Bible was gradually substituted by books with portions of Scripture, and with time, the Scripture gradually disappeared.

The *Dillsworth Guide to the English Tongue* was introduced into the Colonies in 1750. It was less religious than the *New England Primer* but provided for advanced pupils as well as for the beginners. In 1783, Noah Webster presented his *Spelling Book,* which was still more secular, but more American than the Dillsworth book, and which, by 1890, was the best seller next to the Bible.[4] During the following years more textbooks appeared until now one can find many varieties from extremely Biblical to extremely secular.

FOOTNOTES

[1] Clarence H. Benson, History of Christian Education, p. 105.

[2] Benson, *op. cit.,* pp. 108, 109.

[3] *Ibid.,* p. 110.

[4] Benson, *op cit.,* p. 110.

Benson, Clarence H., *History of Christian Education.* Chicago, Moody Press. 1943.

[From the CONGRESSIONAL RECORD, Nov. 1, 1971]

A LEADING BAPTIST REPLIES TO "AMERICANS UNITED" IN SUPPORT OF PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, recently the so-called Americans United mailed to all Members of Congress a paper entitled "Fallacies and Falsehoods of the Wylie Amendment," which I regard as not accurate. Dr. James M. Bulman, parliamentarian of the Southern Baptist Convention, has responded.

I commended Dr. Bulman's letter to the attention of my colleagues:

DOCTOR BULMAN'S LETTER

A paper issued by Americans United, with headquarters in Silver Spring, Maryland, criticizes the following proposed amendment to the U.S. Constitution:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

One point particularly in the criticism is deserving of consideration. Before taking up this point, some observations will be made about the rest of the paper.

Certain alleged "fallacies and falsehoods" are set forth concerning "the drive to amend the First Amendment to the U.S. Constitution." If the prayer amendment is passed, it is claimed, "all the court decisions which have been based on the First Amendment *since the founding of this nation* will be undermined." Actually, the First Amendment has not remained inviolate throughout our republic, but was extensively changed by the Fourteenth Amendment of 1868 as the latter has been interpreted comparatively recently. Thus the Supreme Court acknowledged in Schempp case in 1963:

"This Court has decisively settled that the First Amendment's mandate . . . has been made wholly applicable to the states by the Fourteenth Amendment. Twenty-three years ago . . . this Court, through Mr. Justice Roberts, said: '. . . The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws'."

Of course, only by such inclusion of the states was it possible for the high court in 1962 to ban a prayer sanctioned by the state of New York; and the same for other decisions of recent years relating to religion. The prayer amendment sponsored by Representative Wylie would restore to some extent the original provisions of the First Amendment.

The paper put out by Americans United claims that "voluntary prayer" is still "permitted in all public places," and also even *denominational* prayer—since "voluntary prayer necessarily reflects . . . the denominational orientation of each individual."

If one believes that prayer which is both "voluntary" and "denominational" is permitted in the schools, and wants it this way, then, obviously, he must regard the Wylie amendment, in authorizing only *"non*-denominational" prayer, as taking away something which we now enjoy. But if one wants voluntary and denominational prayer to be permitted, but believes that prayer of any kind, even *non*denominational prayer, is *not* now permitted, then, just as obviously, it would seem, he will look upon the Wylie amendment as offering some change for the good.

The paper cites the 1962 decision as saying the First Amendment must "at least mean that . . . it is not part of the business of government to compose official prayers for any group of the American people to recite." It is to be noted that this is a *partial* statement of what, in the eyes of the court, is prohibited: the First Amendment is said to mean *"at least"* what the court here sets forth. That the court regarded *more* to be prohibited than official "composing" of prayer is indicated by the further statement that the "power, prestige and financial support of government" cannot be placed behind religion: this might mean that school facilities are not to be used for religious exercises, and that school employees are not to participate with students in such exercises. And this is just what was said some months later when the Schempp decision found religious services objectionable because "held

in school buildings under the supervision and with the participation of teachers employed in those schools." As stated in the following summary which the late Senator Dirksen had placed in the Congressional Record (Sept. 19, 1966):

Not only did the Supreme Court in 1962 and 1963 prohibit religious services in the schools, where "in neither case was any child compelled to participate"; but since then, "a federal court has ruled, in a case arising in Whitestone, New York, that public school teachers cannot even permit pupils to recite prayers in classrooms by themselves and on their own initiative. The Supreme Court *refused* to review this last ruling."

Subsequent action by the high court has been to the same effect.

While professing to be able to see "voluntary prayer" as permitted by these court decisions, Americans United strangely are unable to see it in the Wylie amendment. This amendment, they claim, actually would not permit "voluntary" prayer, since it "doesn't even mention 'voluntary prayer'," and would even "forbid" such prayer. It is all the more improper for Americans United to try to make something out of the absence of the word "voluntary," since the 1962 decision, which they insist permits voluntary prayer, only use the word "voluntary" to say that prayer which is "voluntary" is *not free* . . . from the limitations of the Establishment Clause" of the First Amendment! But, of course, the Wylie amendment does not say that people are compelled to pray; and what it says about the "right" to pray must be understood in connection with the First Amendment's provision for the "free" exercise of religion.

It is suggested that there are sinister connotations in the amendment's reference to persons as "lawfully assembled"—as if this is somehow a threat to "freedom of assembly." Those "lawfully" assembled are to be defined in accordance with the First Amendment's provision for those "peaceably" assembled.

The question is raised whether a *church* is to be classified as a "public building," effect which, in the words of the proposed amendment, is one "supported in whole or in part through the expenditure of public funds." If so, it is argued, the amendment would "place in dire jeopardy the freedom and independence of all churches in America since it implies that only 'nondenominational' worship may lawfully be offered in public buildings." And it is pointed out that churches are classified as "public buildings" in the building codes and safety and fire regulations of most cities.

But what a city classifies for a particular purpose would by no means necessarily be the same as what the Supreme Court has classified in reference to such a subject as now before us. It is sufficient to say that if churches were now classified by the Supreme Court as public buildings "supported in whole or in part through the expenditure of public funds," then none of the churches could be in operation. In the Schempp case the court cited with approval these previous judicial pronouncements:

"The effect of the First Amendment to our Constitution was to take every form of religion out of the realm of things which could directly or indirectly be made public business and thereby be supported in whole or in part at taxpayers' expense. . . . The Amendment's purpose was . . . to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion."

Clearly, then, for the churches now to exist they must, and do, come under the clasification of institutions *not* "supported in whole or in part at taxpayers' expense."

By what appears to be a rather odd twist the Americans United contention is that authorization of "nondenominational" religious exercises would prevent tax support from being withheld from *"parochial"* schools—which by definition could hardly be anything other than denominational. This does raise the question as to just what is the "nondenominational" religious exercise which the amendment would permit, and we shall go into that question after a couple of other matters are noticed.

It is claimed that the proposed amendment will not help repair the breakdown of morals within our society. Such provision for prayer is described as "like putting a band-aid on a cancer." We shall not go into the question of the objective efficacy of prayer—though it may be remarked that Americans United appear to be making rather pretentious assertions as to what might and might not be responded to by the Almighty. One man may think a prayer of no value, while another may think quite differently. Why must the latter be prevented from saying the prayer simply because it is lightly regarded by the former?

But the question of the subjective significance of prayer needs some comment, especially in view of the court's contention in 1962 that "when the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain." Thus, the court meant that even though, say, a few atheistic students would not be compelled to join in a prayer, yet the government's sanction of that prayer in the classroom would exert undue influence on this minority.

By the same token, when the machinery of government, as now the case, supports the position of atheists and others who do not want prayer in the schools, then "indirect coercive pressure" is exerted against those who believe that prayer is important enough to be included in the schools. The court professes that the position of government toward religion is neutral—but "neutral you cannot be." In excluding religion from the classroom, the government is in effect inculcating the idea that religion is to be ignored in our national life. That which is ignored will easily be felt to be insignificant. Government sanction of prayer at least will not encourage the youth of today to think that religion may as well be dispensed with.

If the majority of students want to have prayer in the classroom, why should they have to submit to the will of a minority who not only do not want it for themselves but do not want others to be allowed to have it? Where a difference of opinion exists, everyone cannot have his way. Should not the majority prevail, with, of course, provision for one to be excused from participating in an observance to which he cannot conscientiously consult. Under the Wylie amendment, nobody would have to conform to the practice of those who want to pray in school; whereas as things now stand, those who want to pray must conform to the practice of those who do not want to pray.

The paper labels it a "falsehood" to think that the "promoters of this prayer amendment are primarily interested in prayer as and end in itself." I cannot speak for others. I can only say—as one who has tried to "promote" this amendment, not by activity in Washington, but in North Carolina—that I resent any assertion or insinuation that my efforts are not motivated by the primary concern for prayer as an end in itself.

Now for the one criticism of some merit. The criticism, to be sure, is expressed not very clearly or consistently. The upshot is that the term "nondenominational" allows of various definitions. This is true for our language in general. But what about the language of the court and the Constitution?

The 1962 decision recognized that the prayer sanctioned by New York was itself nondenominational in that it referred to "the fact the prayer may be denominationally neutral." That prayer consisted of the following words: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country." At least it would be a gain to have the Constitution changed so as to permit *this* prayer, or so I feel; for while it does not express all that I should desire, it is all right as far as it goes. This New York prayer is much like the religious sentiment of the Declaration of Independence, which is often said to be "deistic" (or "the religion of nature"); and its author, Thomas Jefferson, was rather deistic. Yet, the arch opponent of deism, John Witherspoon, signed the Declaration. The Calvinism (Presbyterianism) of Witherspoon did not exclude the concept of "nature's God" expressed in the Declaration. The religion of the Declaration was, from the standpoint of Witherspoon, true as far as it went.

But Americans United, while contending that "nondenominational might variously be defined, yet positively assert that it is definitely defined in one sense: "A prayer in the name of Jesus Christ would be forbidden in any public building by this amendment. No basis is given for this assertion. But I shall give basis for maintaining the contrary.

The Constitution must be interpreted consistently with itself. The Wylie amendment, on becoming a part of the Constitution, would mean that any religious concept authorized within the sphere of government by the Constitution is to be classified as "nondenominational." Contrary to popular claim, the existing Constitution is *not* altogether neutral in respect to religion: there is recognition of *"the year of our Lord."* which, it cannot successfully be denied, can only refer to Jesus Christ. Thus to this extent the United States Constitution is a *Christian* document! This recognition of Jesus Christ authorized within the sphere of government by the Constitution would, by the addition of the Wylie amendment, be classified as "nondenominational." Thus prayer in reference to Jesus Christ as "Our Lord," or to the "year" of His birth, would be "nondenominational"; otherwise, the Constitution in one place would be authorizing only "nondenominational" religious concepts within the sphere of government, and then, inconsistently, in another place would be authorizing a "denominational" concept within that sphere.

[From the CONGRESSONAL RECORD
November 1, 1971]

JEWISH SUPPORT FOR PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, the following letter, with excerpts of a letter by the Lubavitcher rabbi, Rabbi Menachem Mendel Schneerson, was received in my office on October 29 and is related to the upcoming vote of House Joint Resolution 191, an amendment to permit nondenominational prayers in public schools and buildings.

This letter was forwarded to me by Rabbi J. N. Kranz of the Lubavitcher Center, Oak Park, Mich.

Rabbi Schneerson points out the need for a nondenominational prayer in public schools. He also addresses himself to the principle of the separation of church and state and the need for safeguards. I would urge all Members to read Rabbi Schneerson's letter prior to casting their vote on November 8 on this vital issue:

LUBAVITCHER CENTER,
Oak Park, Mich., October 10, 1971.

HONORED CONGRESSMAN: H.J. Res. 191, the amendment concerning non-denominational prayer in the public schools, has been discharged from the Judiciary Committee through petition, and will come before the House for a vote.

We respectfully bring to your attention the views on this matter of Rabbi Menachem

M. Schneerson (the *Lubavitcher Rabbi*), world Jewish leader.

Sincerely yours,

J. N. KRANZ,
Rabbi.
Y. M. KAGAN,
Associate Rabbi.

EXCERPTS OF A LETTER BY THE LUBAVITCHER RABBI, RABBI MENACHEM MENDEL SCHNEERSON

On the contrary, if there could have been any change at all (in my views), it was to reinforce my conviction of the vital need that the children in the public schools should be allowed to begin their day at school with the recitation of a *non-denominational* prayer, acknowledging the existence of a Creator and Master of the Universe, and our dependence upon Him. In my opinion, this acknowledgment is absolutely necessary in order to impress upon the minds of our growing-up generation that the world in which they live is not a jungle, where brute force, cunning and unbridled passion rule supreme, but that it has a Master Who is not an abstraction, but a personal G–d; that this Supreme Being takes a "personal interest: in the affairs of each and every individual, and to Him everyone is accountable for one's daily conduct.

Juvenile delinquency, the tragic symptom of the disillusionment, insecurity and confusion of the young generation, has not abated; rather the reverse is the case. Obviously, it is hard to believe that the police and law-enforcing agencies will succeed in deterring delinquency and crime, not to mention completely eliminating them at the root, even if there were enough police officers to keep an eye on every recalcitrant child. Besides, this would not be the right way to remedy the situation. The remedy lies in removing the cause, not in merely treating the symptoms. It will not suffice to tell the juvenile delinquent that crime does not pay, and that he will eventually land in jail (if he is not smart enough). Nor will he be particularly impressed if he is admonished that law-breaking is an offense against society. It is necessary to engrave upon the child's mind the idea that any wrongdoing is an offense against the Divine authority and order.

At first glance this seems to be the essential function of a house of prayer and of the spiritual leaders. However, anyone who does not wish to delude himself about the facts of house of prayer attendance, both in regard to the number of worshippers and the frequency of their visits, etc., etc., must admit that shifting the responsibility to the house of prayer will not correct the situation. Nor can we wait until the house of prayer will attain its fitting place in our society, and in the life of our youth in particular, for the young generation will not wait with its growing-up process.

Children have to be "trained" from their earliest youth to be constantly aware of "the Eye that seeth and the Ear that heareth". We cannot leave it to the law-*enforcing* agencies to be the keepers of the ethics and morals of our young generation. The boy or girl who has embarked upon a course of truancy will not be intimidated by the policeman, teacher or parent, whom he or she thinks fair game to "outsmart". Furthermore, the crux of the problem lies in the success or failure of bringing up the children to an awareness of a Supreme Authority. Who is not only to be feared, but also loved. Under existing conditions in this country, a daily prayer in the public schools is for a *vast* number of boys and girls the only opportunity of cultivating such an awareness.

On the other hand, as I have emphasized on more than one occasion, only a *strictly-non-denominational* prayer, and no other, should be introduced into the public schools. Any denominational prayer or religious exercise in the public schools must be resoluting opposed on various grounds, including also the fact that this would create divisiveness and ill-feeling. Likewise must Bible reading in the public schools be resoluting opposed for various reasons, including the obvious reason that the reading of Koran and the New Testament will arouse dissention and strife. Moreover, the essential objective is a religious expression that would cultivate reverence and love for God, and this can best be accomplished by prayer, while Bible reading is not so important in this instance.

1. It has been argued that the child attending public school is in the category of a "captive", since his refusal to participate in a prayer would "stigmatize" him. His participation would therefore be involuntary and an encroachment on his freedom.

In my opinion, the notion of "captivity" as applied in this case should lead to a conclusion which is quite the reverse, for the following reasons:

The child attending public school knows that his attendance is compulsory, because his parents and the government consider his education of the utmost importance. Together with this comes the recognition that what is really important and essential to his education is taken care of in the school. The child's instinctive feeling and inference from this is that anything that is not included in the school curriculum is of secondary importance if, indeed, of any importance at all. Hence, if religion (prayer) is excluded from the school, the child would inevitabily regard it in the same category as an extra foreign language, or dancing, or music lessons, which are not required by the school but are left to the parents' free choice, and which the child, not illogically, considers a burden or even a nuisance. In other words, the present system of the public school education is such that it *impresses* upon the pupil the belief that everything connected with religion, such as knowledge of G–d's existence, etc., is of little consequence, or of no importance whatever.

It will neither interest nor impress the child if he were told that the exclusion of prayer from the school is due to the principle of the separation of State and Church, or to a constitutional technicality. These reasons or explanations, even if they be actually conveyed to the child from time to time will not nearly impress him as much as the plain fact itself, which reasserts itself each and every day, that nothing can be very important to his education if it is not included in the school program. Such a situation can only reinforce the child's attitude of indifference, or even disdain, to any religious beliefs.

The above would be true even in the case of a child who comes from a religious home and background. How much more so in the case of children whose parents and homes are not permeated with the religious spirit, or where religion is something which is practiced once a week, on the day of rest, or only on holidays and special occasions. This, after all, is the kind of home from which the vast majority of the public school children come, inasmuch as the truly religious parents make every sacrifice in order to provide their children with the religious education and environment of a parochial school.

2. To oppose non-denominational prayer "on constitutional grounds" is, in my opinion, althogether a misunderstanding or misrepresentation of the problem.

The issue is: Whether a non-denominational prayer wherewith to inaugurate the school day is, or is not, in the best interests of the children. If the answer is "yes", then obviously it should be made constitutional, for there can be no difference of opinion as to the fact that the Constitution has been created to serve the people, not vice versa.

It may be pertinent to add here that the approach that the Constitution of the U.S.A. must not be touched or amended under any circumstances, is in itself a flagrant violation of the letter and spirit of the Constitution, which has its own built-in machinery for future amendments that may be required in the public interest; machinery which has been used in the past to incorporate into the Constitution a number of amendments.

3. It is argued that the principle of separation of Church and State is the only safeguard for freedom of religion, equal rights for minorities, etc.

Without going into the question whether there actually exists a strict separation between State and Church in this country (for there are undeniable facts to the contrary, e.g., the institution of Chaplaincy in the armed forces; the opening of Congress with a prayer; the motto "In G-d we trust" on American currency, the emphasis on Divine Providence in the Declaration of Independence; etc., etc.), I submit that the validity of the argument is contingent upon the question who is behind this principle, and how is it to be interpreted and applied? Suffice it to cite an illustration from the representative States now in existence, in one of which the said principle is in full operational force, while in the other it is not. In the first, as the daily press reports, there is a calculated war on religion and religious practices, with the suppression of all religious freedom, etc. Incidentally (and perhaps it is quite relevant to our discussion), it all started there with a ban on religious instruction to young children. In other countries, for example, England, there is no separation of Church and State, there is religious instruction in the public schools, yet you find there complete religious freedom for all religious denominations.

4. Some argue further that the principle of separation of State and Church must be maintained at all costs, in order to prevent a resurgence of religious persecution so prevalent in the Middle Ages, when an established state-religion denied equal or any, rights to other religions, etc.

The fallacy of this argument should be quite obvious. By way of illustration: Suppose a person was ill at one time and doctors prescribed certain medication and treatment. Suppose that years later the same person became ill again, but with an entirely different, in fact quite contrary, malady. Would it be reasonable to recommend the same medication and treatment as formerly?

In Medieval times the world suffered from an "excess" of religious zeal and intolerance. In our day the world is suffering from an excessive indifference to religion, or even from a growing materialism and atheism. Even where religion is practiced, it often lacks depth and inspiration. (The subject is too painful to discuss in detail.) Thus, if separation of Church and State was necessary, it is not at all the answer to the problems of our contemporary youth. Besides, the preservation of the principle is not at stake here, and the introduction of a non-denominational prayer in the public school will not endanger it in the least. Moreover a special clause to this effect can be included in the amendment.

5. It has also been argued that if a non-denominational prayer were permitted and left to the discretion of every school board in the country, this practice would lead to abuse.

I do not consider this a valid argument. Firstly, we are talking here about a strictly non-denominational prayer, and agreement should not be difficult on this point. Nor could there be room for any undercover abuse, since prayer would be recited openly in the school. Besides, a proviso could be made which would require the unanimous approval by the representatives of religious demoninations before the particular non-denominational prayer is introduced into the school. Moreover, there is no need to compose new non-denominational prayers, as there are already such.

6. The argument that a short non-denominational prayer would have no effect on the child reciting it, could not be considered as a serious argument by anyone who has

knowledge or experience in child education. On the contrary, the fact that prayer will be recited in the school and classroom, and day after day, will inevitably become an integral part of the child's thinking and is bound to be a factor which could be further cultivated to the child's advantage in terms of spiritual and psychological development.

Summarizing the above-said, my standpoint indicates the following course:

(a) All efforts, petitions, etc., should be brought to bear towards the introduction of a constitutional amendment which would permit the recitation of a strictly non-denominational prayer in all public schools.

(b) At the same time it should be clearly emphasized that any other kind of prayer or religious exercise, including Bible reading, is not desirable in the public schools because of the friction and divisiveness which such a practice would inevitably entail. It would surely be detrimental to introduce an amendment which would do just that.

(c) I am gratified to see that there are representatives in Congress who expressed their support for an amendment that would permit a non-denominational prayer in the public schools, while opposing sectarian prayer and Bible reading.

(d) The whole controversy as to the constitutionality of such a non-denominational prayer is of little, if any consequence to the problem itself. The crucial problem is how to build the ethical and moral fibre of the young generation which is educated in the public school system: Is the American child to grow up under an educational system which excludes all mention of the Divine Name, so that he (or she) will inevitably regard the world around him (or her) as a G-dless jungle; or is he (or she) to be encouraged to think that there is a Supreme Being, the Creator and Master of the World, Who ordains justice and liberty for all, and Who is the source of true blessing.

Certainly a non-denominational prayer in the public schools will not, in itself, provide an adequate basis for the right and complete world-outlook, but it is an indispensable first step in this direction, considering the state of our society as it is at present, and as it is likely to remain for quite a long time, insofar as it can be judged from the prevailing conditions and factors.

[From the CONGRESSIONAL RECORD, November 1, 1971]

MORE BAPTIST SUPPORT

Mr. WYLIE. Mr. Speaker, pastor Samuel Arthur Jeanes of the First Baptist Church of Merchantville, N.J., has written me a letter regarding House Joint Resolution 191.

I believe that Reverend Jeanes' letter is indicative of the feelings of many Americans. In addition, I think it eloquently points out what I am trying to accomplish with House Joint Resolution 191.

I commend this letter to my colleagues' attention:

FIRST BAPTIST CHURCH,
Merchantville, N.J., October 27, 1971.

Re: House Joint Resolution 191.
Hon. CHALMERS P. WYLIE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WYLIE: It is time that the muddled confusion created by court rulings on prayer in tax supported schools be ended. The polls that are taken clearly indicate that the American people, in overwhelming numbers, want to permit voluntary prayer in their schools.

Perhaps, the confusion has been caused because there are those who believe that the courts have said more than they really said and have hastily rushed us into a "prayer vacuum" in public education. The United States Supreme Court in the Board of Regents case ruled against the use of a prayer that was officially recommended by that Board with a directive that it be recited aloud in the presence of a teacher. In a second decision the United States Supreme Court, in the Abingdon, Pennsylvania School District case ruled against a Pennsylvania law requirement that ten verses be read from the Bible without comment at the opening of each school day. A third case never reached the United States Supreme Court but the U.S. District Court of Appeals for New York State ruled that little children could not recite a simple ancient prayer with their morning milk and cookies which went as follows:

"God is great, God is good,
And we thank Him for this food."

All the American people want is the opportunity for their children to offer voluntary prayer in their schools which was the practice for many, many years. The passage of House Joint Resolution 191 could grant this permission and certainly bring an end to the misunderstandings which have led to many excesses.

It is unfortunate that some religious bodies have been mounting pressure upon the Congress to thwart the will of the majority of the people. My attention has been called to statements from the American Baptist Convention of which I am a member. Such statements of opposition to voluntary prayer in our tax supported institutions supposedly are based upon resolutions passed by the Convention itself. May I call your attention to the fact that such resolutions are followed by a statement of explanation which says:

"What do American Baptist resolutions represent?"

"American Baptist resolutions are the attempt to help Baptists express a Christian view on crucial issues. To be sure resolutions passed by the American Baptist Convention cannot be said to represent the conclusions of all American Baptist, or even all the American Baptists attending the Convention. They do, however, represent the careful thinking of a large number of people."

To illustrate the limited extent of representation reflected by such resolutions let me quote from the June 4, 1971 issue of Christianity Today which says:

"During debate over a controversial statement on non-traditional 'family life styles' that could have been interpreted as endorsing pre-marital sex and homosexual practices, ABC Treasurer, Milton Bennett—a Toledo restaurant operator—invoked the parliamentary law requiring that a majority of delegates be present when business is transacted. Only a fourth of the 2,800 were on hand, bringing automatic adjournment . . . Bennett's ploy was the first such call in the memories of ABC officials. It will not be the last; delegates spoke privately of using it next year (many of the ABC's most controversial resolutions over the years have been passed by a fraction of a quorum)."

The American Baptist Convention claims about 6,100 individual churches with an approximate total membership of 1,500,000 people. There is no reason to believe that even half of the churches had delegates at the Convention session when this resolution against prayer in the schools was adopted. Furthermore, as a rule the delegates who do go to Convention sessions have no authority whatsoever to commit their congregations on any issues. Neither are any scientific efforts made to poll the thinking of the churches or their membership on such questions.

I trust that the members of the Congress will exercise seasoned judgment by accepting such sweeping statements from large organizations for what they are . . . expressions of men based upon very incomplete findings and voted, often by bodies that do not represent even a very small fraction of their total constituency.

The proposal before you does not require prayer, but it certainly does not prohibit it. Neither does it grant authority of any official body to determine the form or content of the prayer.

It should be remembered that the prayer decision of the Supreme Court was based upon their interpretation of the Constitution. However, the Constitution is an instrument ordained, not by the courts, but by the people. The courts may interpret it, but the people have a right to amend it. It should say clearly what the people want it to say.

If public prayer can be offered in the Halls of Congress at each opening session, in military camps and on board ship for our service men, at the inauguration of the President of the United States, at national political conventions, at social, civic and public functions, and even in our penal institutions, why should prayer be banned from the lips of our children and young people in the schools of the nation?

The passage of HJR 191 will give the world a moral witness that declares that for Americans God is important. And it will reaffirm what the Supreme Court itself has said that "we are a religious people whose institutions presuppose a Supreme Being".

Sincerely yours,

SAMUEL A. JEANES,
Pastor.

[From the CONGRESSIONAL RECORD, Nov. 1, 1971]

SOUTHERN BAPTIST SUPPORT FOR PRAYER

Mr. WYLIE. Mr. Speaker, the impression has been left that because of the Southern Baptist Convention opposition to House Joint Resolution 191, all Baptists are against it.

I respectfully suggest that not all Baptists feel as Dr. Carl E. Bates. I have received considerable correspondence to this effect. I call attention to a letter from Rev. Claud Logan Asbury of the Gibson Avenue Baptist Church, Wilmington, N.C.:

GIBSON AVENUE BAPTIST CHURCH
Wilmington, N.C., October 26, 1971.

DEAR CONGRESSMAN: As you know the requisite 218 signatures on Discharge Petition Number 1 concerning the proposed Prayer Amendment to the Constitution has been achieved in the U.S. House of Representatives. How grateful all Americans must be for this Victory.

It is my understanding that H.J. Res. 191 has been scheduled for consideration by the House of Representatives on November 8th. I am very hopeful that it will receive the two-thirds vote required for the passage of a Constitutional Amendment.

I believe the spiritual direction *Upward*, which Our Beloved Nation must take in the future depends, to a great extent upon the approval of A Prayer Amendment to our U.S. Constitution—this action in the U.S. House of Representatives can be the necessary *First Step*.

As you probably know, I am Sponsor of "The Asbury Resolution on Voluntary Prayer in The Public Schools", which has already been adopted by *two* Baptist State Conventions of The Southern Baptist Convention (consisting of all 50 states): the Baptist State Convention of North Carolina (which comprises 3,449 churches with a total membership of 1,023,147 people—this is the *second* largest Southern Baptist Convention State regarding churches and total membership—Texas being the largest), and the present home of Southern Baptist Convention President, Dr. Carl E. Bates, who is also pastor of the First Baptist Church, Charlotte, North Carolina—the resolution was adopted last year (1970) in the War Memorial Auditorium, Greensboro, North Carolina; and the Baptist State Convention of South Carolina (which comprises 1,599 churches with a total membership of 587,304 people)—it was adopted in 1964 in the First Baptist Church, Columbia, South Carolina, the State Capitol.

On behalf of the Baptist State Conventions of North and South Carolina (of the South-

ern Baptist Convention), which have adopted "The Asbury Resolution of Voluntary Prayer in the Public Schools", I deeply appreciate your vote for this Prayer Amendment to the Constitution.

With kindest regards and appreciation, I am

Very truly yours,

Rev. CLAUD LOGAN ASBURY.

[From the CONGRESSIONAL RECORD, Nov. 2, 1971]

SENATOR HOWARD H. BAKER JR. IN SUPPORT OF THE PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, recently, I received a letter from Senator HOWARD H. BAKER, JR., son-in-law of the late Senator Everett McKinley Dirksen who sponsored a prayer amendment identical to House Joint Resolution 191. I got the idea from Senator Dirksen. Senator HUGH SCOTT has introduced a resolution which is very similar and which has 46 cosponsors. Senator BAKER'S letter deserves attention, it seems to me. The letter follows:

SEPTEMBER 24, 1971.

Hon. CHALMERS P. WYLIE,
Longworth House Office Building,
Washington, D.C.

DEAR CHALMERS: Please accept my congratulations on your splendid effort with respect to the prayer amendment.

As you know, on February 10 I introduced in the Senate S.J. Res. 32, which is identical to H.J. Res. 191. My proposal now has thirty-seven co-sponsors. You may recall that on October 13 of last year I offered the text of the amendment as an amendment to the Equal Rights amendment, which was then pending on the floor of the Senate. The prayer amendment was agreed to on a roll-call vote of 50–20. Final action on the Equal Rights amendment was never taken.

I want to cooperate with you in any way that I can in this matter. As a result of your successful drive to discharge the House Committee on the Judiciary from further consideration of H.J. Res. 191, the prospects for the amendment appear brighter than at any time in the past.

Sincerely,

HOWARD H. BAKER, JR.

[From the CONGRESSIONAL RECORD, Nov. 2, 1971]

PROPOSAL CONCERNING NONDENOMINATIONAL PRAYER IN PUBLIC BUILDINGS

Mr. GIBBONS: Mr. Speaker, very soon we will be voting on a proposal concerning nondenominational prayer in public buildings. As you know, Mr. Speaker, this proposal comes to us under a very difficult parliamentary situation in which debate will be limited to 1 hour and no amendments allowed. Unfortunately, there have been no hearings by the appropriate committee of the Congress on this proposal.

Should this proposal be adopted and become a part of our Constitution, it will be the first time in the entire history of this country that the first amendment to the Constitution of the United States has been changed.

The proposed amendment is as follows:

"Section 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

"Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress."

Because Mr. WYLIE'S proposal raised so many questions in my mind, I propounded a set of questions and asked him to respond to them. Mr. WYLIE has responded to each question and I would like to have his response included in the RECORD so that each Member may have an opportunity to review each question and answer.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 1, 1971.

Hon. SAM GIBBONS,
U.S. House of Representatives,
Washington, D.C.

DEAR SAM: My apologies for the delay in responding to your letter of October 12.

My response to the 23 questions you asked in said letter is as follows:

1. Question: Who is to determine what is a nondenominational prayer?

Answer: The local school authorities would determine this, subject to judicial review which should be exercised in the event those authorities clearly abuse their discretion. The United States Constitution is premised in its division of powers upon the principle of subsidiarity, that governmental functions are best entrusted to the lowest level of government able to accomplish them. To be sure, there are powers that are denied therein to any government, state or federal, such as the right to deprive a person of life, liberty or property without "due process of law." But the issue of school prayer is one which, prior to the Supreme Court prayer decisions in 1962 and 1963, was safely left to the good sense of the people in the localities involved. What is a nondenominational prayer is not the kind of question which requires a uniform national solution.

2. Question: Assuming a school elects to have a nondenominational prayer, is it to be given during the regular school hours?

Answer: It would be lawful under the amendment, for the school authorities to provide for the recitation of a prayer during school hours. Of course, it would be proper for the courts to intervene to prevent abuse, for example, if the practice were carried out in such a way and at such frequency and length as to interfere with the educational function of the school. It seems to me, the ordinary practice of opening the school day with a prayer, or of otherwise including prayer as an incidental part of the school day, would not constitute such an abuse.

3. Question: Who in the school will give the prayer?

Answer: The person giving the prayer should be a volunteer from among the faculty, administration or student body of the school. Clearly, no person could be compelled to give the prayer or otherwise participate.

4. Question: May it be given out loud or silently?

Answer: This should be left to the judgment of the local school authorities.

5. Question: Does your amendment envision that a school board should prescribe a certain prayer of their choosing as being the nondenominational prayer for their school system?

Answer: Not necessarily. It could be composed by a student. It could be the prayer from the *Engel* case, which the Supreme Court said was nondenominational or it could be the prayer of the Senate or House Chaplain. A local school board would have the power to say that a prayer is not nondenominational, I would think.

6. Question: If not the school board, then would it be the principal or the teacher?

Answer: The composition or selection of the prayer would be the function of the local school authorities. In the usual case, this would be the local school board. This board would have the power to delegate the task of composition or selection to a principal or teacher or, for that matter, a student. In all situations, serious abuse could be redressed by judicial action.

7. Question: Would your amendment allow police or judicial action to prohibit a prayer in a public building because it did not meet their interpretation of being a nondenominational prayer?

Answer: Of course, judicial action would be appropriate to prevent serious abuse in this as in all other areas of our national life which involve the application and protection of constitutional rights. It would, however, be a matter within the primary cognizance of the courts rather than the police authorities. Procedurally, any action to prohibit a prayer would follow the cases already decided on this question.

8. Question: Under your amendment can the federal government decide what is a nondenominational prayer?

Answer: See the answer to question 4. If, however, a federal school is involved, it would be within the power of the appropriate federal official to decide whether a prayer is nondenominational. His decision would, of course, be subject to judicial review, just as now.

9. Question: Who in the federal government would decide?

Answer: There is nothing mandatory in the language of this amendment which could be implied from your question. The primary purpose of this amendment is to protect the right of the people to the free exercise of their religion. If the people desire to include a prayer in the activity in question, the public official would have no power to forbid it, provided that the conduct of the prayer did not substantially interfere with the primary function of the school or other activity involved. The amendment would not confer on any official, state or federal, a power to prescribe a prayer so as to compel anyone to recite it or otherwise participate in it. The amendment only reinforces the right to the free exercise of religion. Again, I would assume that the official in charge of any specific activity where a prayer was a part would have the primary responsibility to say whether it was or was not nondenominational.

10. Question: Does your proposed amendment prevent the giving in a public building of a prayer that has not been classified as nondenominational?

Answer: The amendment would legitimize prayer if it is "nondenominational." As I mentioned, an example of an appropriate nondenominational prayer would be the New York State Regents' Prayer, which was composed by a Jewish rabbi, a Catholic priest, and a Protestant minister and was the subject of the decision by the Supreme Court in *Engel* v. *Vitale*, 370 U.S. 421 (1962). This prayer read: "Almighty God, we acknowledge our dependence upon Thee, and we beg thy blessings upon us, our parents, our teachers, and our country." Other prayers could readily be considered sufficiently nondenominational within the meaning of the amendment. It goes without saying that judicial review would be available to prevent serious abuse in this as in other areas.

It is fair to say, also, that a prayer could be nondenominational in the context of the overall school program even if it would be regarded as sectarian if considered in isolation. It would seem to be legitimate for the appropriate authorities to permit the different religions represented in the school or other activity to take turns in offering a prayer of their respective religions. Considering the matter in its totality, the overall character of such a policy would be nondenominational. And it is important, too, that such a policy would foster greater understanding and tolerance among the various creeds. Particularly in grade schools, this is an objective earnestly to be desired.

11. Question: When are persons not "lawfully assembled" under your amendment?

Answer: Trespassers, or disorderly persons, of course, would not be "lawfully assembled." School children, members of a city council, participants at a public meeting and persons lawfully present at other lawful

gathering in public buildings would be included.

"Assemble"—according to Webster's Seventh New Collegiate Dictionary—means to collect into one place or group; to meet together.

12. Question: Many church-related hospitals receive public funds—will your amendment restrict persons in these buildings to nondenominational prayers?

Answer: No. The amendment is designed to expand the rights of free exercise of religion as they now exist. Chuch-related hospitals or schools receiving public funds are not now precluded from permitting sectarian prayer on their premises. The amendment would not change their status in this regard. The amendment is permissive. It would restore to public schools and such other institutions as may be restricted by the Supreme Court's prayer decisions, the right to permit the participants therein to engage in nondenominational prayer.

13. Question: Under your amendment must all prayers in public buildings be nondenominational?

Answer: Where an institution is now precluded by the Supreme Court's decisions from allowing any prayer of any type, the amendment would restore their right to allow prayer provided that it is nondenominational. There are other situations which are clearly beyond the reach of the Supreme Court's school prayer decisions as presently construed. A municipal auditorium may presently be rented to an evangelist to conduct a sectarian service. Since the amendment is designed to expand rather than restrict the right to the free exercise of religion, such an arrangement and other similar situations which are presently allowed, would not be prohibited.

14. Question: Is the purpose of your amendment to negate the Establishment Clause of the First Amendment by establishing a nondenominational prayer as a religion?

Answer: The allowance of nondenominational prayer does not constitute a "law respecting an establishment of religion," in the words of the First Amendment. The Supreme Court's school prayer decisions, which held that such a practice in public schools violates the establishment clause, were wrongly decided.

15. Question: Would you please define prayer as used in your resolution. Is it to be silent? Oral? In unison? To whom is it to be addressed? God? Jesus? Our Father? May it end with the words "In Jesus' name. We pray, amen"?

Answer: The content and format of the prayer would be determined by the people and appropriate authorities. See question 10 above.

16. Question: Is the nondenominational prayer limited to the Christian religion? Is nondenominational prayer limited to the Judeo-Christian faith?

Answer: No. See question 10 above.

17. Question: Do you envisage that "participation" as used in your proposal in all cases be "voluntary" or "non compulsory"? If your answer is "yes," why were these words not included in the proposal?

Answer: Participation must be voluntary in all cases. These words were not included in the amendment because they are unnecessary. The amendment does not infringe upon the right to the free exercise of religion. Instead it reinforces that right. Under the Free Exercise Clause of the First Amendment, no person can be compelled to participate in prayer. This situation would remain unchanged.

18. Question: If the nondenominational prayer that you propose is to be used in the classroom, and is voluntary or non-compulsory as far as the pupil is concerned, does the teacher have the same right as the pupil in this regard?

Answer: Yes. It would violate the teacher's right to the free exercise of his religion if he were compelled to participate.

19. Question: If the nondenominational prayer is voluntary, how is a dissenting pupil or teacher to respond while the prayer is being offered?

Answer: The teacher or pupil who chooses not to participate would be free to stand or sit silently or to leave the room. Compulsion to participate would be forbidden, and judicial relief would be available in appropriate cases. However, the fact that a decision not to participate may result in some embarrassment to the non-participant would not be a sufficient reason to prohibit others from participating in the prayer. Also, there is a strong educational advantage to be attained by the amendment. Dean Erwin N. Griswold, now the Solicitor General of the United States, described the advantages of school prayer in an article in 1963:

"Let us consider the Jewish child, or the Catholic child, or the nonbeliever, or the Congregationalist, or the Quaker. He, either alone, or with a few or many others, of his views, attends a public school, whose School District, by local action, has prescribed the Regents' Prayer. When the prayer is recited, if this child or his parents feel that he cannot participate, he may stand or sit, in respectful attention, while the other children take part in the ceremony. Or he may leave the room. It is said that this is bad, because it sets him apart from the other children. It is even said that there is an element of compulsion in this—what the Supreme Court has called an "indirect coercive pressure upon religious minorities to conform." But is this the way it should be looked at? The child of a nonconforming or minority group is, to be sure, different in his beliefs. That is what it means to be a member of a minority. Is it not desirable that, at the same time, he experiences and learns the fact that his difference is tolerated and accepted? No compulsion is put upon him. He need not participate. But he, too, has the opportunity to be tolerant.

He allows the majority of the group to follow their own tradition, perhaps coming to understand and to respect what they feel is significant to them.

Is this not a useful and valuable and educational, and, indeed, a spiritual experience for the children of what I have called the majority group? They experience the values of their own culture; but they also see that there are others who do not accept those values, and that they are wholly tolerated in their nonacceptance. Learning tolerance for other persons, no matter how different, and respect for their beliefs, may be an important part of American education, and wholly consistent with the First Amendment. I hazard the thought that no one would think otherwise were it not for parents who take an absolutist approach to the problem, perhaps encouraged by the absolutist expresions of Justices of the Supreme Court, on and off the bench. (Griswold, Absolute Is In the Dark, 8 Utah L. Rev. 167, 177 (1963))."

20. Question: Are you attempting in any way to nullify the Establishment Clause of the First Amendment?

Answer: No. On the contrary the Supreme Court's school prayer decisions themselves violate the intent of the Establishment Clause. That intent was aptly described by Judge Thomas Cooley, a leading constitutional scholar of the nineteenth century, as follows:

By establishment of religion is meant the setting up or recognition of a state church, or at least the conferring upon one church of special favors and advantages which are denied to others. It was never intended by the Constitution that the government should be prohibited from recognizing religion, or that religious worship should never be provided for in cases where a proper recognition of Divine Providence in the working of government might seem to require it, and where it might be done without drawing any invidious distinctions between different religious beliefs, organizations, or sects [Cooley, Principles of Constitutional Law (Boston, 1898), 224–25].

The school prayer decisions of the Supreme Court have the effect of establishing agnosticism as the official public religion of this nation. In the 1963 school prayer case, Mr. Justice Brennan wrote in his concurring opinion that the words "under God" in the pledge of allegiance are not necessarily unconstitutional in light of the Court's decision, because: "The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the fact that our Nation *was believed to have been founded 'under God.'"* [*Abington School District v. Schempp*, 374 U.S. 203, 304 (1963) (Emphasis added)]. Apparently the words "under God" can be retained only if they are not seriously meant to be believed. Under this rationale it would violate the Constitution for a public official to affirm as a fact that the Declaration of Independence is true when it affirms that men are endowed with unalienable rights "by their Creator."

The amendment is designed to reverse the Supreme Court's establishment of agnosticism as the national religion. It is designed to permit the American people, lawfully assembled in public buildings, to affirm as a fact that this is indeed "one nation, under God," that indeed there is a Creator higher than the state.

21. Question: If you concede the right to pray is an unalienable right and government may not constitutionally prohibit prayer, will not all those who are lawfully assembled in a public building be denied their constitutional right if the appropriate public body has not decided upon a nondenominational prayer?

Answer: The basic right involved here is the individual right to the free exercise of religion. It would be the duty of the public body or officials involved to give due and reasonable recognition to that right. However, it still would be appropriate for that public body or those officials to conclude in a given case that the inclusion of prayer would interfere with the primary purpose of the assembly concerned. This decision would have to be based on reasonable grounds and it would be subject to judicial review to prevent serious abuse.

22. Question: If a public body was unable to determine what was a nondenominational prayer, or if a dissatisfied citizen disagreed with the decision, would this type of action be appealable to the Federal courts?

Answer: The federal and state courts would have jurisdiction to prevent serious abuse here. The amendment does not in any way limit access to the courts for constitutional relief.

23. Question: What do you mean by "in part?" Is it a majority of the funds or any part, no matter how small?

Answer: Presumably, the expenditure of public funds would have to be significant in light of the overall expense of operating the institution in question. The provisions of the amendment would not be brought to bear by a merely trivial or insignificant governmental expenditure. The amendment is primarily aimed at truly public institutions such as public schools. It would apply, for example, to a public school even though part of that school's budget were met by a donation from a private foundation. If the school is public, the pupils will be allowed to pray. If the school is essentially private, even though it receives substantial public support, the amendment would not change their present status. At the present time, those schools are permitted to allow even sectarian prayers. When the amendment says "nothing contained in this Constitution shall abridge the right . . . to participate in nondenominational prayer," it does not change the present rule applicable to private schools, since neither nondenominational nor sectar-

ian prayer is forbidden therein. What the amendment would do is to change the rule presently applicable to schools which are authentically public. In those schools, both nondenominational and sectarian prayer are now forbidden by the Supreme Court. The amendment would allow nondenominational prayer in those schools.

It is my hope these answers will resolve any doubts which you may have had with regard to H.J. Res. 191, and I look forward to your affirmative vote on November 8.

Very truly yours,

CHALMERS P. WYLIE,
Member of Congress.

[From the CONGRESSIONAL RECORD, Nov. 2, 1971]

NONDENOMINATIONAL PRAYER IN PUBLIC SCHOOLS

Mr. WYLIE. Mr. Speaker, because I know better, I have never given the slightest credence to the propaganda-style statements that the people of the United States as a whole are opposed to guaranteeing the right of nondenominational prayer to children in the public schools. I have always recognized that these statements are not the fact because of the tremendous volume of mail I receive, not just from my own district, my own State, but from all over the country, with respect to the proposal to amend the Constitution to guarantee this right that will be called up in this body on Monday next. A heavy preponderance of that mail favors the proposed amendment to correct what most people believe to be a wrong perpetrated by the Supreme Court.

But I am nonetheless happy at this time to be able to inform my colleagues that a poll taken by the National Enquirer—a weekly newspaper which now has the largest circulation of any newspaper in the United States—shows that 92.6 percent of those responding in a 2-week period are in favor of prayer in schools and of a constitutional amendment to guarantee that as a right.

This, Mr. Speaker, is no piddling poll, based on the opinion of a minuscule portion of our population. More than 50,000 persons took the trouble to respond to the Enquirer's poll—a great contrast with the 1,000 or 2,000 who are interviewed in the normal and widely published opinion polls. Every single poll taken since June 26, 1962, shows an increase in the number of Americans favoring a constitutional amendment on school prayer.

I am greatly impressed with the heavy margin favoring the school prayer amendment, I hope that my colleagues will—as representatives of all the people and not just special interest groups—be impressed also.

In this connection, I would like to say also that I think the National Enquirer has done a great public service by conducting this poll, and I would like to express my appreciation to Mr. Generoso Pope, Mr. Henry Dorman, and the other executives and editors of the National Enquirer for their interest and for their dedicated service in helping to determine, for the record, just how the people do feel about this urgent matter.

Mr. Speaker, both the North Carolina and South Carolina Baptist State Conventions have endorsed House Joint Resolution 191.

I include the following article:

[From the Wilmington (N.C.) Star-News, Oct. 31, 1971]

REVEREND ASBURY GOES TO WASHINGTON

The Rev. Claud L. Asbury, pastor of Gibson Avenue Baptist Church, will be in Washington, D.C., this week to lend his efforts for the adoption of the "Prayer Amendment to the U.S. Constitution."

The Rev. Mr. Asbury has been the chief instigator in obtaining actions by the Wilmington Baptist Association, North Carolina Baptist State Convention and South Carolina State Baptist Conventions in approving recommendations to Congress that voluntary prayer be permitted in the public schools in the nation.

A similar action was approved by the Southern Baptist Convention last summer in St. Louis, by passage of "The Asbury Resolution on Voluntary Prayer in the Public Schools."

The House of Representatives will consider "The Prayer Amendment" on Nov. 8.

"The intent of the Prayer Amendment, sponsored by Rep. Chalmers P. Wylie of Ohio," Mr. Asbury said, "is to clarify the right of every individual to participate in voluntary prayer in the public schools. Such clarification is needed in light of the 1962 Supreme Court ruling which states that even a voluntary, denominationally neutral prayer is unconstitutional.

"The Asbury Resolution has already been adopted by two Baptist State Conventions—by that of North Carolina with 3,449 churches and a membership of 1,023,147 persons, and by that of South Carolina with 1,599 churches and a membership of 587,304 persons."

Mr. Asbury said South Carolina adopted the resolution in 1964, while North Carolina adopted it in 1970. He said North Carolina has the second largest state convention in total churches, with only Texas being bigger.

Dr. Carl Bates, pastor of the First Church of Charlotte, is president of the Southern Baptist Convention.

"I'll need all your prayers and all the help we can get this week in Washington," Mr. Asbury added.

Mr. Speaker, with an introduction like this, it is my hope to convey to my colleagues the view held by many thoughtful Americans that our moral fiber has been degenerating basically due to a lessening of motivated spiritual deference. The one thing we have all learned with respect to the recent tumult of activated youth and responsive civil rights movements is that these group dynamics have come about due to forces like the rapidity of present living and loss of concern for the individual in a world fastly becoming overpopulated and highly segmented. Many who realize what has happened are attempting to reverse the trend and steer us on a course of concern for our fellow man and his individualistic needs through prayer.

The well-known and respected David Lawrence, editor of U.S. News & World Report, sums up this view quite succinctly, and I commend his editorial, which appeared in the Evening Star, for my colleagues' consideration:

[From the Washington Evening Star, Sept. 6, 1971]

WHAT UNITED STATES NEEDS IS PRAYER DAY

(By David Lawrence)

The American people every year have certain holidays, such as Labor Day or Independence Day or Veterans Day or Memorial Day. There is one special day on which public opinion needs to be focused, and that is the holding of a prayer day.

For America has more crime and acts of lawlessness and misbehavior than ever before in its history. This is a result of the indifference of parents to the irresponsible acts of early youth.

Many a person may have had some religious teaching, but it may have made little or no impression on his or her mind. Sometimes this leads to a disordered life, and in recent years this has been increased in intensity by the availability of drugs.

Under these circumstances, shouldn't the American people admit that they have a serious problem on their hands and begin to put more stress on what constitutes a law-abiding citizen and a dedication to the fundamental principles of a decent life?

All religions have some principles in common. There are universal commandments which say "thou shalt not steal" and "thou shall not kill." Yet these two commandments are being widely ignored today. There are demonstrations instead in favor of "liberty" and what is really "license." The individual believes he has a right to do as he pleases even if it hurts someone else.

The government, of course, cannot participate in any religious teachings. Students today are not allowed even to indulge in "voluntary prayers" on their own in a brief session before school begins each day. The courts have not yet decided whether, if such prayers are not prescribed by the school authorities and are merely chosen by the parents and accepted for use by the students, they are permissible.

Why should there not be manifestations by the citizens, for example, to persuade small groups of boys and girls to attend classes in ethics to be held after school?

There are numerous ways of educating the youth of the country in the rules of good behavior. In most instances, no objection would be raised if they were told that many religions exist in the world and that virtually every one of them is based on a belief in a supreme being. Emphasis could be placed on the fact that a vast number of citizens are members of some church, attend its services and live by its precepts.

The time has come for national organizations to take up the whole problem of how to encourage young people to become interested in learning the difference between the factors that have produced unhappiness and those that have created happy lives.

If the government would set aside one day each year as prayer day and express the hope that all people would attend church and pray for the unfortunate individuals in the world, it would at least make an impression on the minds of many of the young that there is a duty to be helpful to people who need assistance.

In recent years considerable attention has been paid to pornographic literature and plays and shows and dances with a sexual appeal. This has had an impact on the generation that is growing up.

Decency can be achieved only by bringing back a spiritual feeling and an unselfishness that takes into account the consequences of one's acts. This applies particularly to the tens of thousands and perhaps millions who come to think, either through watching some TV shows or other theatrical presentations, that killing is permissible and that robbing is a proper way to get money to buy drugs or to indulge other desires and live one's own life in utter disregard for the effect on other human beings.

The National Commission on the Causes and Prevention of Violence reported last year that violence on television encourages real violence, especially by children in poor or disorganized families. A new study by government researchers just issued states that average youngsters appear to show similar patterns of behavior.

Certainly if there were a prayer day, it might start a trend of thought toward a restoration of morality in a country where people, especially the young, steal property and violate the person of their fellow men and do not believe they are doing anything wrong. This is a psychological dilemma with which the nation is confronted today.

WHY THE PRAYER AMENDMENT?

In response to certain critics who feel the Supreme Court's verdict with respect to the offering of prayer in school should stand unequivocally—however uncertain and misleading—I offer the statement in

an effort to state the present judicial opinion and clarify the need for a constitutional amendment to assure the constitutional privilege to say a voluntary nondenominational prayer in school if that is a child's choice.

WHY THE PRAYER AMENDMENT?

Our founding fathers wrote into the Declaration of Independence: "We are endowed by our Creator with certain unalienable rights . . ." The recognition of the Supreme Deity is the very foundation stone of our Democracy. To this end, prayers were said in schools, in community halls, in public buildings by groups assembled all across this great land of ours whenever the spirit moved them and I am sure, if they thought about it, the participants felt they were carrying out the precepts of our Declaration of Independence.

This was true for 186 years until the Engel case decided by the Supreme Court in 1962. There the Court held: "State officials may not compose an official state prayer and require that it be recited in the public schools of the state at the beginning of each day—even if the prayer is denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited." The prayer in question was: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country."

I would accept that holding on its narrow limits. Although, I agree with Justice Stewart and think his opinion is more correct when he says: "On the contrary, I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation."

The mischief of this decision was not, at first, apparent. It was rather what came after. The following year the Supreme Court decided Abington v. Schempp. There it held that a Pennsylvania statute which provided for compulsory reading of ten verses of the "Holy Bible" without comment as a part of the opening exercise in the public schools was unconstitutional.

In the Stein v. Oshinsky decision in 1965, the Supreme Court had a beautiful opportunity to clarify this whole situation. But, the court denied certiorari leaving the Court of Appeals' decision to stand. There students had asked to be allowed to initiate a prayer period on their own for those who wished to participate. The principal refused. A group of parents brought action to enjoin school officials from preventing the recitation of prayers on the children's initiation. The court held: "The constitutional rights to free exercise of religion and to freedom of speech do not require a state to permit 'student-initiated' prayers in public schools, the Court of Appeals would direct judgment dismissing the complaint." The prayer they recited: "Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything."

Three years later, in DeSpain v. DeKalb, a federal court of appeals ruled that a teacher could not recite this ancient prayer, even if she left out the word God to comply with the Stein decision, "We thank you for the flowers so sweet; We thank you for the food we eat; We thank you for the birds that sing; We thank you for everything," leaving out the word God. The court said everyone knows what "you" means and the "intent is to offer thanks to God."

To show how far the courts have gone they said in that opinion, "It is not to be gainsaid that the verse may have commendable virtues in teaching kindergarten children 'good manners' and 'gratitude,' to use Mrs. Watne's words. In fact, however, that children through the use of required schoolroom prayer are likely to become more grateful for the things they receive or that they may become better citizens does not justify the use of compulsory prayer in our public school systems. As the plaintiffs point out, if prayers which tend to teach and inculcate these virtues are not within the ambit of the bar imposed by the first amendment against such religious activity, any religious activity of whatever nature could be justified by public officials on the basis that the activity has beneficial secular purposes; as a result the Supreme Court's admonitions in Engel and Schempp would become meaningless."

All of the decisions seem to say, if you recognize the Supreme Deity in any way in a public school, you are doing an unconstitutional act. If they do, we need a constitutional amendment to assure that my constitutional privilege to say a voluntary nondenominational prayer in a public building shall not be abridged.

If they say something less, then this amendment is an assurance there will be no further encroachment on this basic precept in our constitution, that we are endowed by our Creator with certain inalienable rights and the recognition thereof. Additionally, the 80% of the American people who feel they have been frustrated in a basic constitutional right will feel the Constitution is to protect them too.

REPORT FROM CALIFORNIA REGARDING THE PRAYER AMENDMENT

(Hon. CHALMERS P. WYLIE of Ohio)

By way of introduction of Mr. George Todt, the gentleman who composed the following article which I feel merits my colleagues' attention, I would like to state some of Mr. Todt's credentials. Presently, Mr. Todt is serving as President of the American Center for Education. His skills include recognition as an editorial columnist, commentator and lecturer. Mr. Todt's reports are carried in over 130 newspapers across the country and his column has received the George Washington Honor Medal from the Freedoms Foundation at Valley Forge on several occasions, as well as its first Special Freedom Leadership Award for 1962. This is the highest honor Freedoms Foundation has given a member of the mass communications media—press, radio or television—in its long and eventful history. Mr. Todt, as you will note, has been working assiduously with Mr. Sam Cavnar, a well renowned leader of the prayer movement.

[From the Valley (Calif.) News, Oct. 31, 1971]

GROUPS PUSHING PROJECT PRAYER

(By George Todt)

"Thank you for your letter supporting my Prayer Amendment to the Constitution. Sam Cavnar is a fine gentleman. As chairman of 'Project Prayer' his assistance on behalf of the Prayer Amendment campaign has been invaluable."

Congressman Chalmers P. Wylie (R-Ohio.)—Letter, Oct. 20, 1971.

How are Prayer Amendment forces doing in the battle now taking place throughout the nation prior to the scheduled "go for broke" vote on Nov. 8 in the House of Representatives?

In order to zero in on pertinent information regarding this matter, I questioned the national general chairman of Project Prayer on some of the vital issues. He is Samuel M. Cavnar, who is also vice president and treasurer of the American Center for Education in Hollywood.

GIVES WARNING

"We of Project Prayer totally refute the allegations of the liberal leadership of the National Council of Churches that their 40 million members are against voluntary school prayer," he told me. "To back up our contention, we proudly announce that more than 50,000 additional churches have gone on record as favoring voluntary school prayer.

"Some 38,000 churches of the National Evangelical Association, representing 30 denominations, have joined our effort. Also, the American Council of Christian Churches of Southern California and thousands of individual church leaders—including Dr. Harold Fickett of the First Baptist Church of Van Nuys, largest Baptist church in the West; Rabbi Judah Glasner of Tujunga, Dr. William Meyer of the Emanuel Presbyterian Church, thousands of lay groups of the Catholic Church, including Knights of Columbus and Women's Guild units, have offered their help."

But Cavnar warned against over-confidence and complacency.

He pointed out frankly the battle is far from over and has not yet been won in Congress where the Nov. 8 showdown vote is crucial.

While a plain majority-plus-one consisting of 218 congressmen signed the discharge petition of Congressman Chalmers Wylie (R-Ohio), which took the matter out of the hands of the long-stalling judiciary committee headed by Congressman Emanuel Celler (D-N.Y.), the Nov. 18 vote must have the approval of two-thirds of those present and voting. Much harder than a mere simple majority. Will it be done?

Of the 38 California congressmen, Cavnar noted that only 11 signed the vital discharge petition and all were Republicans.

"This does not mean California Democrats in Congress are against the measure," he said, "but it does mean they need to know where the voters of their own districts stand so they can make their decisions accordingly. We strongly suggest that all interested persons contact their own congressman immediately and let him know whether they are for or against this voluntary school prayer amendment."

TELLS SITUATION

In response to my query, Cavnar told me the over-all congressional support to force the Prayer Amendment out of the judiciary committee had been bi-partisan in nature. Some 118 Republicans were joined by 100 Democrats to accomplish the objective.

He pointed out also that the timely arrival of so many new church leaders to assist Project Prayer now only indicates that the leadership is catching up with the membership as far as going on record in favor of voluntary school prayer.

"All of the major national polling organizations have shown consistently at least a 3-to-1 favorable ratio among the general public over the past nine years," he said. "Now we must translate this favorable margin of public opinion into a winning vote in Congress. Many fine supporters have become apathetic or complacent because they assume nobody would vote against God. Hopefully not; but other issues may be involved. We must continue our outstanding grass roots mail campaign right down to the wire."

Further information may be obtained by writing to Pat Boone, national chairman, Project Prayer, 1680 N. Vine St., Hollywood, Cal. 90028 or telephoning (213) 466-9339 or (213) 461-3225.

THE RIGHT OF PRAYERS IN SCHOOLS

Striking back at opponents of his proposed constitutional amendment to guarantee the right of prayers in schools, Representative Chalmers P. Wylie (R-Ohio) today accused its critics of "total ignorance of the will of a majority of the people."

Wylie, who successfully led a drive to force the proposed amendment out of the House Judiciary Committee, said in a House speech that, despite organized opposition, "the people of the United States are determined to have their own way on this issue."

The proposed amendment will be called up to the House Floor on November 8 as a privileged matter, under rules governing consider-

ation of legislation taken from a committee by a discharge petition signed by a majority of members. A two-thirds majority of the House, however, will be necessary to advance the proposed amendment to the Senate. The House has never voted on the issue because of the adamant opposition of Judiciary Committee Chairman Emanuel Celler (D–New York).

Since Wylie succeeded in by-passing Celler and his committee, "a strange lobby of church leaders and Members of Congress has jointed in to fight this amendment," the Congressman said. "I do not question the sincerity nor the motives of those who oppose it, but I say unequivocally that they are misinformed about the meaning of this amendment and are guilty of not recognizing that in a democracy the people govern. They act in apparent total ignorance of the will of a majority of the people."

The text of Wylie's remarks on the Floor follows:

"It is difficult for me to understand certain ministers, of all people, who are opposed to a constitutional amendment which would guarantee the right of prayer in public schools. Not all ministers are opposed to the amendment. I have received letters from many more than 38 who favor it. I do not question the sincerity nor the motives of those who oppose it, but I say unequivocally that they are misinformed about the meaning of this amendment and are guilty of not recognizing that in a democracy, the people govern. They act in apparent total ignorance of the will of a majority of the people. The people of the United States are determined to have their way on this issue.

"On the one hand, it is suggested that the amendment would allow for no more than can be done now in public schools. If this be the case, then the amendment is needed to see that there is no further erosion of this basic fundamental right. On the other hand, opposition has been expressed that because of the separation of church and state argument prayer should not be allowed in schools.

"There has not been a single case decided since the *Engel* case in 1962 which has permitted any practice which would indicate a tolerance toward voluntary prayer in public schools. In one case after another, students have been prevented from reading a voluntary prayer, from reading prayers from the Congressional Record, from singing the last verse of "America" because it mentions God, and—yes—even from saying the Pledge of Allegiance because of the phrase 'one nation, under God.'

"In a democracy, the people govern. I noted in the Congressional Record for October 19, 1971, a statement by the Honorable J. Glenn Beall, Jr., Senator from Maryland, in which he publishes the results of polls on this issue beginning in August 1962 through February 1971. The results of these polls show that from 73 percent to 91.5 percent of the American people overwhelmingly favor the civil right of free school prayer, depending on the form of the question. In my own hometown of Columbus, Ohio, said to be a typical American community, a poll taken by ABC–TV on this question revealed that 91.5 percent said prayer should be permitted in public schools.

"In the same edition of the Congressional Record, Senator Hugh Scott refers to a petition containing signatures of 5,000 residents from Bedford and Everett, Pennsylvania, in support of a proposed constitutional amendment to allow voluntary prayer and Bible reading in public schools. Senator Scott says: 'I was particularly heartened to learn that this wonderful expression of support was due in large part to the efforts of David Crawford, a 17-year-old student from Everett High School.'

"The people of the United States are determined to have their way on this issue as evidenced by the thousands of letters and petitions which I have received in my office since I filed the discharge petition."

Washington Post Editoral on Prayer Amendment

Mr. Wylie. Mr. Speaker, on Nov. 3rd in the Washington Post, an editorial appeared entitled "The Debate Over the Prayer Amendment." I would like to take this opportunity to commend the Washington Post for its objectivity in reporting the status of the prayer amendment. However, at the same time, I would like to clarify the word "nondenominational," over which many members of this body have expressed concern.

"Non" means absence of, according to Webster's Seventh New Collegiate Dictionary. Under "denominational" in the same dictionary, "denominational" is defined as the general name for a category of a religious organization uniting in a single, legal and administrative body. So "nondenominational" would mean not the designation of a religion or absence of a religion. Taken in common meaning, "nondenominational" means, to me at least, without reference to a particular religious faith or sect.

Mr. Speaker, I respectfully request unanimous consent to insert this editorial.

The Debate Over the Prayer Amendment

We have been reading the Appendix of the Congressional Record with some care lately because in among the miscellaneous documents printed there a debate has been raging over the proposed prayer amendment to the Constitution. It is a fascinating debate, not only because it involves a crucial aspect of American life and a key part of the Constitution but because it cuts across and through religious lines like almost nothing we have ever seen.

This amendment, after being pried out of the House Judiciary Committee on a discharge petition, comes to a vote in the House on Nov. 8. It says, "Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." There is a great deal to be said about this proposed amendment—its intent, the problem it seeks to solve, the problems it raises, and even its wording. But for the moment we want to pass all that by merely reporting on how the battle lines in that debate are forming.

Many, perhaps most, of the national religious organizations and leaders are opposed to the amendment. Statements of opposition have been made by such diverse groups as the Church of the Brethren, Executive Council of the Episcopal Church, General Board of Christian Social Concerns of the United Methodist Church, Joint Advisory Committee of the Synagogue Council of America, and the Executive Council of the United Church of Christ. Similar statements have been signed by the presidents or chief executive officers of the National Baptist Convention, Southern Baptist Convention, the United Presbyterian Church, and the Scottish Rite of Freemasonry. Editorials opposing the amendment have appeared in three major religious publications—Christianity Today, Christian Century, and America, the latter being the magazine of the Jesuits.

But it is quite clear that these leaders and organizations do not speak for all of those back home. One congressman expressed amazement that the president of the Southern Baptist Convention now opposes the amendment after seeming to concur a year ago when the North Carolina Baptist State Convention passed a resolution in favor of it. That is only one example out of many of such splits inside denominations. In the last few days, we have spotted in the Record communications from the following groups: United Methodist Church of Shickshinney, Pa., Good Shepherd Lutheran Church of Toledo, Ohio, School Committee of Cambrige, Mass., 321 students at Fort Wayne (Ind.) Bible College, and the New Jersey Fellowship of Regular Baptist Churches. In addition, support for the amendment has been registered by several individuals, a minister of the United Church of Christ in Cuyahoga Falls, Ohio, and a professor of law at Notre Dame.

This division among religious groups and leaders suggests to us, at least, the problems that arise any time a proposal is made concerning the proper relationship of church and state—which may also suggest why it is so important for the state to maintain its distance from the sponsorship of religious practices, even the "nondenominational" kind. But that gets to the merits of this amendment and, as we said, we will put that off for another day.

Grassroots Support

Mr. Speaker, I request unanimous consent to insert the following news clippings which express more grassroots support for House Joint Resolution 191:

How distressed I am to read articles such as the one on "House Petition Forces School Praying to Vote." Personally, I pray that the amendment to put prayer back in the public schools will pass, and immediately.

We are a nation quick to forget our values. We hassle over such technicalities as defining nondenominational prayer, while prayer has never been denominational—it is a simple, sincere desire of the heart of man. Unlike other forces, its power is limitless. Therefore, prayer belongs not only in the schools, but in the church and home. Our daily lives should be those of constant prayer.

The proposals, voting, amending, and legislating take our time and attention. Yet, when our three astronauts were in serious trouble in outer space, no one proposed or voted to call us us to prayer. President Nixon immediately called the entire nation to seek God on their behalf. Surely this was nondenominational prayer and whether we believe it or not, it worked.

Aimlessly, we wander through procedures and regulations, making such statements as the one made by Rep. Emanuel Celler, D-N.Y., that to approve prayer in the public schools would be a "most grave error"; attributing to the eight years our schools have orbited in the tragic stratosphere of trouble, revolt and prejudices—while our future America, (your children and mine) is at stake. . . .

Rev. William T. Sawyer,
Christian Tabernacle Baptist Church.

Freedom To Choose

The stand against school prayers, in a Plain Dealer editorial, surprised this reader. It said: "The school pupil who would decline to pray might be scorned . . . the majority would be attempting to make the minority conform." I doubt that any child would be scorned, since we all believe in individuality and freedom of expression. Besides, even the minority would benefit if God answered the prayers of the majority, thereby helping to create a better world for all mankind. I also thought that the majority rules. The conclusion was: "Respect for religious liberty is one of the things that made America great." Was not God taught, along with reading, writing, and arithmetic, during colonial days? Was there not more love and respect for one's fellowman? Only God can ever cure society's ills . . . let's reach out to him, using any or all means.

Marge Sepper.

Mr. Speaker, the overwhelming amount of correspondence I have received with regard to House Joint

Resolution 191, an amendment to permit nondenominational prayer in public buildings, has indicated broad citizen support for such a measure. One citizen group, Pennsylvania Citizens for Public Prayer, has sent me an article which I feel elaborates on the fundamental principles involved with the prayer amendment. As this question-answer article explains, and I agree, the proposed amendment seeks to eliminate the confusion that the courts have created through their misinterpretation of the Constitution.

The astute answers and logical reasons the article presents in support of House Joint Resolution 191 merit the attention of my colleagues.

QUESTIONS AND ANSWERS ON THE CIVIL RIGHT OF FREE SCHOOL PRAYER

(Distributed by the Pennsylvania Citizens for Public Prayer, Chairman: Chester R. Doyle, Berwick, Pa.)

1. *The First Amendment to the Constitution is involved here. What does it say?*

It says two things. First, government must not establish, that is support and/or promote any particular religion; second, government must not interfere with the free exercise of religion on the part of its citizens.

2. *Does the First Amendment deny the right of free prayer in public schools?*

As originally written and interpreted with common sense for many decades, the First Amendment to the Constitution does not deny the right of free, non-sectarian prayer in public schools, Public reverence is a matter of very long and very general record in the history of these United States. At the time the Supreme Court banned free prayer from the public schools of New York State on June 25, 1962, the majority of public school districts across America provided time for free school prayer.

3. *Why, then, is it now proposed that the First Amendment itself be amended?*

While there is nothing wrong with the First Amendment as written, once the Supreme Court intervenes to mis-interpret that Amendment, as it did in its two prayer-ban decisions, it becomes necessary to repeal this mis-interpretation and restore the First Amendment to its original sense. This restoration is *not an attack on the First Amendment, but rather a defense and a re-affirmation of it.* It is not a question of repealing or tampering with the First Amendment. The Court has already done this. It is a question of clarifying that Amendment so that it is in accord with the clear will of the nation. It is not those of us who advocate a peoples' amendment for public prayer who open a Pandora's box here but the Court which, ignoring the common sense of the First Amendment has already done so.

4. *Are you attacking the Supreme Court?*

We attack neither the institution nor the persons of the Court. Simply, with full democratic right, we question the two prayer-ban decisions. We believe, with Mr. Justice Stewart, that "the Court has misapplied a great constitutional principle." We do no more here than Abraham Lincoln did when, more than a century ago, he questioned the Dred Scott decision in these words: when all the words, the collateral matter was cleared away from it, all the chaff was fanned out of it, it was a bare absurdity . . . The Dred Scott decision covers the whole ground, and while it occupies it, there is no room for the shadow of a starved pigeon to occupy the same ground.

While no two cases are, of course, perfectly analagous, our dissent from the majority opinion of the Court in its two prayer-ban decisions is based, as was Lincoln's to Dred Scott on two counts—(a) whatever the obiter dicta (or incidental remarks) the deed of the decisions, the rationale of the decisions is very seriously wrong, (b) so long as the decisions stand no practise of public reverence among us is safe.

5. *What, in fact, did the Court do in its two prayer-ban decisions?*

Briefly, on June 25, 1962 and on June 17, 1963, the Court widened the First Amendment prohibition against government support of a particular sect or church (e.g. Roman Catholicism, Episcopalianism, Reform Judaism) to include government encouragement of free, non-sectarian prayer and other religious exercises in the public school. In its first decision, the majority of the Court said—"Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment clause." In its second decision, the Court said that even to question that the First Amendment meant reverence as such, rather than government support of a particular sect or church, is "entirely untenable and of value only as academic exercises." This kind of interpretation of the First Amendment is very clearly *fundamental.* It is not incidental. It is not isolated. It states *a principle which must affect all future Court decisions in matters falling under the purview of the First Amendment.* As the former Dean of Union Theological Seminary, Henry P. Van Dusen, put it:

The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances. A consistent application of such a policy would involve a revolution in the Nation's habitual practice in the matter of religion . . . *Nothing less than this is at stake.*

6. *What did the Court, specifically, do in its two prayer-ban decisions?*

In 1962 the Court banned this prayer from New York State public schools:

Almighty God, we acknowledge our dependence upon Thee and we ask Thy blessings upon us, our parents, our teachers and our country.

Eleven of the thirteen judges who passed on the case before it reached the Court had ruled that the prayer was constitutional. Attorney Generals from nineteen States had intervened to support this constitutionality saying, in part:

Our founding fathers, together with the great and God-fearing leaders of the last century and a half, would be profoundly shocked were they to have been told in their day that in this year of our Lord . . . a voluntary, nondenominational acknowledgement of a Supreme Being and a petition for His blessings recited by American children in their classrooms is being seriously attacked as a violation of the Constitution of the United States.

In 1963, the Court banned reading of the Lord's prayer and parts of the Bible from public schools in Maryland and Pennsylvania. In each instance, by state law, no pupil was required to recite the prayer who wished to be excused, no teacher to lead it who wished to be excused. Remember, *the issue throughout is religion, an upreach of heart and mind to God, not what some call "teaching about religion."*

7. *Did not the Court, in its 1962 decision, say that the prayer in question had been state-composed and state-imposed and was, therefore, unconstitutional?*

It did, but this was a misunderstanding of both the situation and the principle involved. At the request of the Board of Regents of the State of New York, a representative group of religious leaders composed a prayer which was then made available to school administrators across the State. This prayer was no more state-composed or state-imposed than is the case in any instance where government seeks and uses the advice of relevant experts (e.g. engineers on highway construction, doctors on mental health) to meet the will of the people government serves. In short, we have here a perfect example of the *principle of subsidiarity.* Government does for families and individuals what they cannot accomplish in the dimension and place desired by themselves. When, in 1951, the Board of Regents of the State of New York enabled the beautiful prayer above, they did so with these words:

We believe that thus the school will fulfill its high function of supplementing the training of the home, ever intensifying in the child that love for God, for parents, and for home which is the mark of true character-training and the sure guarantee of a country's welfare.

8. *Did not the Court, in both decisions, go to considerable lengths to assure that it was not hostile to religion, and that we remain "a religious people?"*

There were here, as there are in most court decisions, many incidental remarks, pleasant phrases that do not express the heart of the decision, "obiter dicta." As noted in the answer to question #4 above, the deed of these decisions is absurd. No matter how many incidental assurances the Court may give (and for incidental remarks the other way see Mr. Justice Douglas' concurring opinion in the second decision) the fact is clear—these decisions place all public reverence in danger. We have a rather perfect example here of what you do thunders so loud I can't hear what you say. Progression from and use of the two prayer-ban decisions in attacks on other instances of public reverence (e.g. the 1968 Christmas prayer of the astronauts, the 1969 Peace Pageant in Washington, D.C.) make it more than clear that these decisions were not isolated or terminal but the very critical start of what could be a series of creeping secularisms. Whatever the innuendoes in the decisions, whatever stands between parentheses, *religion is very evidently no longer constitutionally welcome in our public schools.* Again, the subject is religion not "teaching about religion."

9. *There are those who argue that religion is still possible in schools. Do you agree?*

This is a question which must be very carefully considered and answered. At the start it must be stressed that *many (if not most) of those who argue in this fashion are actively opposing or, at least, minimizing the drive for a Peoples' Amendment for Public Prayer.* We call their line the Argument from Substitution. There are two key factors in our response to it. One is the factor of timing, the other is the factor of recognition of the radical precedent in the two prayer-ban decisions, a precedent which no amount of substitution will eradicate. *Timing.* Once the decisions have been fundamentally reversed, then it is time to ponder the whole matter of spirit and moral content in our public schools. Until then, *the substitutors are suggesting we band-aid a cancer.* They are suggesting we accept seemingly valid alternatives which, as we shall note, are often not valid alternatives at all and which do precisely nothing to root out the basic error of the decisions. The very first question to ask a substitutor is—*Do you, or do you not, favor a prayer amendment?* Many of the substitutors' proposals are void of any reverence (i.e. God as dates, works of art, which Pope ruled when, who reformed what where). Many have no affective content about them (e.g. the Bible as literature period), no collective brotherhood about them (e.g. silent meditation). The closer any of them comes to being real brotherhood in prayer, the more likely it is that it will be challenged and struck down by courts operating under the compulsion of prayer-ban illogic. *Recognition of the root of evil.* Some things may still be possible in our schools, but to press them while allowing the deadly virus of two prayer-ban decisions to

fester is folly of very serious dimensions. *The argument from substitution is particularly dangerous* and must be watched carefully. While seeming to favor it, in fact it opposes and undercuts our cause. *Any film, article, or organization which advances the argument from substitution and does not clearly and repeatedly call for a prayer amendment is suspect and is working against us.*

10. *Why is it important to reverse the decisions? Briefly what did they do?*

a. *They denied a great and good practice,* a brotherhood of free prayer which had existed with a maximum of good sense and a minimum of mistakes in most of our school districts.

b. They created a precedent equating establishment in the First Amendment with reverence, though in each of the cases decided the prayer was non-denominational and voluntary. In terms of this precedent no practise of public reverence is now safe. At the same time, *all future decisions under the First Amendment are now tainted at the source.*

c. What happend in the effort constitutionally to reverse the Court is an almost unbelievable denial of the democratic process. Until September 21, 1971 when a successful "discharge petition" broke the back of the Celler blockade and forced a prayer amendment proposed by Congressman Chalmers P. Wylie (Ohio) to the House floor, despite repeated and "king size malls" to Congress, and in the face of poll after poll indicating that the massive majority of the American people want free prayer restored to their public school, there had not been one single *normal* floor vote on a prayer amendment bill in either chamber of the Congress. What is at stake, clearly, in addition to the civil right of free prayer is democracy itself. If the will of such a proven majority of the nation could break through to the floor only through the extremely unusual device of a successful discharge petition, then democracy itself is in danger.

11. *Is there an even larger sense in which a Peoples' Amendment for Public Prayer is now essential?*

There most certainly is. Indeed there has never been a time since Washington prayed in the snows of Valley Forge when we so much need again *a Nation on its Knees!* We are daily buffetted with evidence of arrogance, sex-ism, dope-ism, immorality and flagrant indecency among us. The school prayer issue, when it is debated in fifty states as we ponder a Peoples' Amendment for Public Prayer, could be a critical first step in the recovery of our spirit as *a reverent republic.* Here is how the National Coordinator of Citizens for Public Prayer put it at Harrisburg, Pennsylvania, on July 10, 1969:

America today is in deep and big trouble. I need not stress the suffering and angry poor, the anarchy, the lawlessness, the tragic syndrome of escape from responsibility through drugs, the filth in some of our theaters and on some of our stages. Nor do I come here to suggest that returning the civil right of free prayer to our children will all at once change everything. I do suggest that the fight for renewal of this civil right can become a great rallying point for those who, like us, stand outraged before the rot which spreads through the nation!

There is given to men now and then some relatively simple moment or symbol or place in which a number of complex and important things gather and at which a comprehensive remedy for multiple wrongs is clarified. Such a symbol was the penny on the pound of tea in Boston two hundred years ago. Such moments came at Valley Forge. Such places are Thermopylae and, perhaps, Stalingrad, surely at the Concord Bridge. There are in these times and things the symbolism and power to move whole peoples. *This kind of moment is now possible.*

This kind of moment is now before us as we fight to enable a vote in fifty states on a Peoples' Amendment for Public Prayer. Make no mistake. The national debate over a clarifying amendment to repeal the two tragic Supreme Court prayer ban decisions of 1962 and 1963 will not stop with the morning moment, the brotherhood of free prayer in our public schools. Involved will be the whole critical issue of God's role among us. Involved will be highly important ingredients of respect and reverence, our good traditions since the Pilgrims signed the Mayflower Compact "in the name of God," that supreme Fatherhood which makes all our brotherhood meaningful. Involved, in fact, may be the very survival of the democratic process. *Here is a place to take our stand explicitly once again* as a reverent republic and to recoup our collective sanity by re-asserting our national spirit.

12. *What wording do you suggest for this Peoples' Amendment for Public Prayer?*

Various wordings are, of course, possible. None will be easy to come by, none will be perfect, but *with reasonable ecumenism and good will on all sides, we can find the right words.* In any case, we have never shied away from critical issues before our national conscience just because it was difficult to say their solution in law. Whatever wording is decided here must be very carefully and prayerfully conceived so that it accommodates the will of the great majority of our people, while safeguarding as much freedom of abstention and silence to the minority as is consistent with the paramount will. But a wording must be decided. To avoid the matter because its semantics is complex is to deny the nation a remedy it obviously desires and to promote increasing civil disobedience in the subject area. Here is the text of the Wylie amendment:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer.

Much has been made already of the adjective "nondenominational", in many cases by those who did absolutely nothing during the long months when amendment proposals remained blocked in the Senate Constitutional Amendments Subcommittee (Chairman Birch Bayh) and the House Judiciary Committee (Chairman Emanuel Celler) to assist in finding perfect words to say what the people so clearly demand. For many decades in most of our school districts, the American people practiced the free brotherhood of prayer—with a minimum of mistake and a maximum of common sense. Surely this is possible again. Surely, in this age of good feelings among all religious groups, it should be possible—as never before—to come up with words which reasonably accommodate the need. What is essential, as in all civil rights, is that a principle be established. Once this principle has been established, then we must wrestle with wording and implementation. It is abundantly evident that many of those who raise the issue of semantics here before the principle of a reinstated civil right of free school prayer has been established do so to defeat the principle itself. Let's call a spade a spade. The same people, if they are true to their position here, must rise to question every piece of civil rights legislation simply because universally acceptable language is hard to find and implementation is difficult!

13. *What about school districts which defy the Court and re-institute free school prayer—like Leyden, Massachusetts; Fair Chance, Pennsylvania; Netcong, New Jersey?*

First and foremost, they demonstrate that the subject is not dead and that honest Americans, are concerned enough about it to risk technical illegality. There are two kinds of defiance. One occurs in states where the Court's ruling is ignored by educational authorities. Residents of such states, however, must not deceive themselves into a false sense of security. They may, and very likely will, be challenged. They, too, should join now in the National Prayer Amendment effort. The second occurs in states where the local school board, providing for free prayer, comes into conflict with state educational authorities and such groups as the (so-called) Civil Liberties Union. We do not, of course, favor breaking the law. But there is much more involved here. We do understand civil disobedience when practiced responsibly. And this is clearly *a highly responsible instance of civil disobedience.* School districts which thus defy the Court are saying—we've had enough, we've waited more than seven years. These are frustrated but plainly honest citizens. They are not outlaws.

They are not desperadoes. The challenge here, as in the instance of urban riots, is not to condemn the abrasiveness so much as to remove the causes which transform peaceful citizens into civil disobedients. The challenge before those who are honestly concerned for "civil liberties" is rather to break the incredible denial of democracy in the Congress in the case of school prayer, rather than to fulminate against the decent citizens of defiant school boards. Those who are scandalized by technical law-breaking in such communities as Clairton, Pennsylvania and Leyden, Massachusetts and then do nothing to make it legally possible for school boards to do what the great majority of their constituents clearly desire are, at best, hypocritical. The greater sin, surely, lies with the apathetic mass of parents than with parents of the praying few, with the silent clergy rather than with defiant school boards, with those who while promoting "civil liberty" and preaching "the democratic process" deny civil liberty to the great majority of American parents and do absolutely nothing to vindicate the democratic process on this matter in the Congress!

14. *What about "religious leaders" who oppose a prayer amendment?*

Many real religious leaders do support the civil right of free school prayer. Among them are: the National Association of Evangelicals, the National Council of Catholic Youth, Dr. Billy Graham, Patrick Cardinal O'Boyle, Bishop Fulton Sheen, the North Carolina Baptist Convention, the South Carolina Baptist Convention, the Orthodox Greek Diocese of North America, the Diocesan Council of Catholic Women in Buffalo, the Diocesan Council of Catholic Women in Pittsburgh, the Diocesan Council of Catholic Women in Worcester (Mass.), Bishop Bernard J. Flanagan of Worcester, Professor Charles E. Rice (Notre Dame Law School.) Most of the other so-called "religious leaders" who oppose amendment are indeed generals without armies.

They do not have the support even of their own congregations. As the response to the next question will demonstrate, they do not speak for the American people. By the law of averages, they do not—in most cases—speak for their own denominational members. The noise and mimeo handouts of these generals without armies must not be permitted to obscure the hard reality—despite the tactics of these leaders who do not lead the American people have for more than nine years seen through the attempt to deceive them and remain convinced that free school prayer is important and wholly consonant with the Constitution. In fact, one of the most interesting aspects of the entire prayer amendment drive is the credibility gap which has opened between the American people everywhere and many of their so-called "religious leaders." Americans simply cannot be convinced that a practice which obtained in most of our school districts for many good decades has suddenly become divisive and harmful,

much less unconstitutional. Those who try to tell them differently have already lost their trust.

15. *What do the polls show?*

Here are a few results:

A. Gallup (Aug. '62) Do you approve of religious observances in public schools? Approve—80% Disapprove—14% No Opinion—6%

B. Harris (Oct. 1964) 80% of the American people support free school prayer.

C. ABC–TV special—Poll of Columbus, Ohio, as typical American city (announced December 28, 1970) Should prayers be permitted in public schools? Yes 91.5%, No. 7.3% No Opinion 2.1%

D. On the ballot in Maryland (November 3, 1970) was a question on school prayer. 73% (409,050) voted yes; 27% (152,706) voted no.

E. A national poll conducted for the Advocates by Opinion Research of Princeton, NJ, in January, February 1971 showed 80% for a constitutional prayer amendment, 12% against, 4% undecided, 4% don't know.

F. The latest Congressional home district poll available to us (Congressman J. Irving Whalley, Penna.) announced on July 21, 1971 showed 94% in favor of school prayer, 4% opposed and 2% uncertain.

Mr. Speaker, as further indication of public support for House Joint Resolution 191, the amendment to permit nondenominational prayer in public buildings, I commend to my colleagues' attention a telegram I received in behalf of 2,700 Vermont Catholic Daughters of America endorsing the amendment.

SOUTH ROYALTON, VT.

Hon. CHALMERS WYLIE,
House of Representatives,
Washington, D.C.

DEAR MR. WYLIE: On behalf of the 2,700 Vermont Catholic Daughters of America, we heartily endorse your proposed amendment H.J. Res. 191.

Fraternally,

MRS. ANN AHER,
State Regent.

Mr. Speaker, on October 2, 1971, there appeared an article in Human Events entitled "House To Vote on School Prayer."

I hereby commend the article to the attention of my colleagues as we will be voting on this very important issue on Monday. I request unanimous consent for the article to appear herein:

[From Human Events, Oct. 2, 1971]

HOUSE TO VOTE ON SCHOOL PRAYER

As forecast by Human Events (Sept. 18, 1971, page 5), the House has forced crusty Judiciary Committee Chairman Emanuel Celler (D.-N.Y.) to release his stranglehold on the constitutional amendment to put voluntary prayer back in the nation's public schools.

Exhausting all other means of persuading the 83-year old liberal solon to send the prayer resolution before the House, Rep. Chalmers Wylie (R.-Ohio) introduced Discharge Petition 1 last April 1, which, when signed by a majority (218) of the House members last week, wrested the measure from the Gotham chairman's grasp.

The five-month campaign for approval of the discharge petition ended when three congressmen—Jerry L. Pettis (R.-Calif.), Floyd V. Hicks (D.-Wash.) and Charles J. Carney (D.-Ohio)—added their written endorsements to the Wylie list, thus clearing the way for a full House vote on prayer in schools.

The prayer amendment is a result of 1962 and 1963 Supreme Court decisions which virtually banned religious ceremonies in publicly supported schools. The court in two celebrated cases held Bible reading and prayers—even nondenominational—in the public schools violated the 1st and 14th Amendment to the U.S. Constitution.

In the wake of those decrees, some 150 prayer resolutions were placed in the hopper, but all were blocked by Celler in his committee. In 1964 Celler held hearings on the prayer amendments, but none of the measures ever reached the floor of the House for debate.

Under House rules, action on discharge petitions can only occur on the second and fourth Mondays of the month, after the bill has been on the calendar for a seven-day period. The first two such days on the Wylie petition are both recess days—Oct. 11 (Columbus Day) and Oct. 25 (Veterans' Day). Therefore the vote is expected to come up Nov. 8, the second Monday in November. Organizations—pro and con—are already stirring up public reaction in attempts to gain victory for their side, and the battle taking shape promises to be hard-fought encounter.

Two weeks ago, 38 officials of national religious groups launched an anti-school prayer campaign by mailing a statement of opposition to every congressman's office. This coalition claims the prayer amendment would lead to government intrusion in religious matters. Among those who subscribe to this theory are officers of the American Baptist Convention, the Southern Baptist Convention, the Executive Council of the Episcopal Church, the National Council of Churches, the American Jewish Congress, the United Presbyterian Church, the United Methodist Church, the Friends Committee on National Legislation, the Church of the Brethren and the Unitarian Universalist Association.

Despite the impressive list of names, however, there are many critics of these officials who believe they are not representing their constituents.

"Every public opinion poll," said Wylie, "shows that an overwhelming majority of the people support an amendment to the Constitution which would permit the offering of prayer in public buildings."

Furthermore, according to the Citizens for Public Prayer, a pro-amendment organization with chairmen in 42 states: " 'Religious leaders' who oppose a carefully worded prayer amendment are in most cases, we are certain from our long experience of the situation, generals without armies."

As evidence, the committee notes:

In November 1970, 73 per cent of Maryland voters cast ballots in favor of school prayer in an official election referendum.

Congressional polls of constituents have shown overwhelming support of voluntary prayer in public schools. When Rep. Irving Whalley (R.-Pa.) polled his district's voters this July, 94 per cent approved of prayer in schools.

In January and February 1971, an Opinion Research poll conducting a survey for the TV program "The Advocates," showed upwards of 80 per cent nationwide were in support of school prayer with majorities in each of the major faith groups.

Polls by Gallup, Harris and *Good Housekeeping* magazine, as well as many local and regional news shows, mirrored this high percentage of public support for school prayer.

Besides the Citizens for Public Prayer, there have been quite a number of various ad hoc pro-prayer amendment groups since 1962. One in particular is Mrs. Ben Ruhlin's Prayer Campaign Committee, which was praised by Wylie and other congressional supporters of the prayer amendment for the tireless effort of its members in working for approval of the prayer amendment and in gaining signatures on the discharge petition.

Other religious and civic groups and individuals have spoken out in favor of the prayer amendment counter to the various "religious leaders" in the opposition. Among the supporters are: evangelist Billy Graham, Patrick Cardinal O'Boyle of Washington, Bishop Fulton Sheen, Rev. Theodore Hesburgh of Notre Dame University, The Orthodox Greek Diocese of North America, the National Council of Catholic Youth, the National Association of Evangelicals, the North Carolina Baptist Convention, the Roman Catholic Daughters of Isabella, the Diocesan Councils of Catholic Women of Pittsburgh, Buffalo and Worcester, the National Jaycees, the American Legion, the Veterans of Foreign Wars, the state legislatures of Louisiana, Maryland, Massachusetts and North Carolina, the National Federation of Republican Women, the National Kiwanis, the National Conference of Governors and the National Conference of Mayors.

If, as expected, the House passes the prayer resolution by the two-thirds vote necessary for a constitutional amendment, the issue would have to be considered by the Senate. Some observers agree with the view of the New York *Times* that "the outlook for Senate adoption is cloudy."

Despite the liberal make-up of the Senate, proponents of the measure are quite optimistic. Rep. Richard Poff (R.-Va.), a prominently mentioned possible replacement for former Supreme Court Associate Justice Hugo Black, predicts favorable Senate action, though he says it will probably not come until next year at the earliest.

Moreover, Poff believes the proposal, following congressional approval, would receive swift ratification by the necessary three-fourths of the states. Bolstering Poff's theory is the fact that the Senate, by a 50-to-20 vote, did accept the prayer amendment as a rider to the women's rights constitutional amendment last November, although the entire package died at the close of the 91st Congress.

Sen. Howard Baker (R.-Tenn.), sponsor of a prayer amendment in the Senate and son-in-law of the late Sen. Everett Dirksen, who authored the original prayer amendment on which the current proposals are based, has reintroduced his amendment in the current session. Minority Leader Sen. Hugh Scott (R.-Pa.) also has one in the hopper. Baker's measure deals with prayer in public buildings, whereas Scott's deals with voluntary prayer or meditation in schools.

Scott's resolution (S.J. 34) has about 40 co-sponsors—liberals and conservatives, Democrats and Republicans. It is currently in the Senate Judiciary Committee's Subcommittee on Constitutional Amendments, chaired by Birch Bayh (D.-Ind.). No hearings have been set on it, but political pros believe Bayh will have to do something with the resolution as a result of the publicity following the signing of the Wylie House discharge petition.

Thus, after a long uphill battle, the first hurdle in returning voluntary prayer to the nation's public schools has been cleared. Now, the public reaction will become a factor in pressuring legislators to vote favorably to return voluntary prayers to America's schools. And after seven years of intransigence Emanuel Celler has been forced to move from his position of blocking the schoolhouse door against the entry of voluntary prayers.

One of the most active organizations in working for passage of the prayer amendment is Project Prayer, a group of prominent personalities, led by singer Pat Boone. Project Prayer, according to its Executive Director Sam Cavnar, will hold a congressional reception prior to the November vote on the amendment. Top names in the entertainment field will be called upon to woo congressional support for the proposal. Among the members of Project Prayer are: Walter Brennan, Dale Evans and Roy Rogers, Gale Storm, Virginia Grey, Joanne Dru, Glenn Ford, Coleen Gray, Brian Keith, Terry Moore, Lloyd Nolan, Mary Pickford, Efrem Zimbalist Jr., Ginger Rogers, Cesar Romero, Jane

Russell, Adm. Felix Stump, Gloria Swanson, Danny Thomas, John Wayne and Calif. Gov. Ronald Reagan.

Mr. Speaker, in Tuesday's CONGRESSIONAL RECORD on page 38718 are my remarks concerning a poll conducted by the National Enquirer.

Today, I wish to commend to my colleagues the article which appeared in relation to this poll. I hereby insert the article from the National Enquirer:

[From the National Enquirer, Oct. 31, 1971]

ENQUIRER READER POLL ON PRAYERS IN SCHOOL

(This is the first Enquirer reader opinion poll. We believe your opinion is important and that you should have an opportunity to express your views on the vital issues of the day. We will take no side on any issue but we will provide space for expert opinions both for and against every question. We will present impartially, a brief summary of the issues and events surrounding each question. Then you tell us what you think. As soon as the ballots are counted, we will publish the results. So speak out. Make your opinion heard. Use ballot at bottom left of page to cast your vote.)

FOR

Dear Enquirer Reader:

Please help me to restore to this country—to your state—to you—a simple but profound right: The right to decide for yourself whether the schools of your community should be free to recite a prayer in the classroom.

The people have never spoken on this issue. Only the Supreme Court has spoken—to prohibit prayer.

This, although every public opinion poll shows that the vast majority of Americans wants prayer in our public schools.

The Constitution does not prohibit prayer in our schools, and never did. The First Amendment guarantees religious freedom. It reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." Ponder those last six words.

Would the passage of the constitutional amendment I have proposed force any school to institute classroom prayer? No. It would only give each school the right to permit prayer.

Would the amendment impose any particular form of prayer, say that of one religion or another? No. The prayer any school may use can be as simple as an acknowledgment of our Creator, or of thanks to Him.

That acknowledgment has always been a part of the finest in American life. Since our earliest days we have celebrated a Thanksgiving Day. Our great basic document, the Declaration of Independence, asserts, "All men . . . are endowed by their Creator with certain unalienable rights . . ."

Reverence for the Supreme Being has always been a foundation-stone on which this nation was instituted, grew and became great. What American child would be harmed by it?

The Supreme Court took this tradition out of the classroom. All the proposed amendment would do is return it. Please help me restore the right of prayer to our schools. You can help immeasurably by expressing your support for the proposed amendment.

Congressman CHALMERS P. WYLIE.

THE FACTS

Controversy over the school prayer issue began in 1962, when the U.S. Supreme Court ruled on a New York State case. By a 6-to-1 vote, the Court decided that a nondenominational prayer used by public schools in that state was illegal.

Announcement of the decision touched off a nationwide debate. Bills were immediately introduced in both houses of Congress to lift the ban by amending the Constitution. None succeeded.

The following year, the Supreme Court broadened and reinforced its prohibition of public school prayer. Deciding on cases that originated in the states of Maryland and Pennsylvania, it ruled, 8 to 1, that the reading of Bible passages and recitation of the Lord's Prayer in public schools were unconstitutional.

Legislators, religious bodies, educators and ordinary citizens have lined up on both sides of the issue.

During the current session of Congress, Rep. Chalmers P. Wylie (R.-Ohio) introduced a proposed amendment to the Constitution that would have the effect of overruling the Supreme Court decisions on school prayer. The proposed amendment reads:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through expenditure of public funds, to participate in nondenominational prayer."

The measure went to the House Judiciary Committee for clearance—customary procedure under the rules of the House for all new legislation.

The Judiciary Committee, headed by Rep. Emanuel Celler (D.-N.Y.), an opponent of the proposed amendment, refused to release the bill for House action.

Congressman Wylie then prepared a "discharge petition" to by-pass the committee and force the measure to the floor for a vote.

This rarely-used procedure, by which the House in effect over-rules its own committee, requires the signatures of a majority of House members. After a six-month drive, the petition to free the school-prayer amendment from committee succeeded when the last of the 218 necessary signatures was added last month.

The proposed amendment will be ready to be voted upon by the full House on November 8 at the earliest. If it passes by a two-thirds vote, it will go to the Senate, where it must also pass by two-thirds. If it succeeds there, it then goes before legislatures of the 50 states. Three-fourths of the state legislatures must ratify it within seven years to make it the law of the land.

The amendment, if ratified, would have the effect of overruling the Court's decisions concerning public school prayer. It would make the option of conducting prayers in the public schools part of the Constitution. No court could then rule against it.

FOR

Dear Enquirer Reader:

I am in favor of the school prayer amendment and I want you, if you believe as I do, to show your support by voting yes in this opinion poll.

We are a nation with a strong religious heritage. The fact that our heritage represents a diversity of religious beliefs and religious institutions does not alter the strong faith we Americans—both in the past and today—have in God.

The Supreme Court's decision which prevents prayer in our public schools does not serve to preserve the freedom of religion that is a cornerstone of the Republic. In my judgment, such a policy discourages Americans in the voluntary exercise of our right to worship as we please.

I do not believe that voluntary prayer in our public schools represents the establishment of a state religion, nor do I believe it represents an infringement on the rights of those of us who choose not to participate.

I am convinced that public education, which is the focal point of our children's lives until they finish school, suffers a serious lack if our religious heritage and religious traditions are not allowed expression.

Our nation was founded by our forefathers who were oppressed in Europe for their religious beliefs. Many of these people made the long and dangerous journey to this country in order to have their freedom of worship, to pray and to believe as they saw fit. They were, as Dr. Billy Graham has pointed out, concerned with maintaining freedom OF religion, not freedom from religion.

For our government to act as if the religious practices of Americans through history either did not exist, or were not suitable for public exercise, is a serious departure from, and an infringement upon, this nation's faith in God.

I am supporting a Constitutional amendment which will allow our children to pray in public schools. I believe that this will allow them to grow in spirit as well as in mind and body. And I also believe that this represents your wishes, too. If I'm right, won't you please vote yes?

U.S. Senator STROM THURMOND,
Member of the U.S. Senate Judiciary Committee's Subcommittee on Constitutional Amendments, which held hearings on the School Prayer Amendment.

Mr. WYLIE. Mr. Speaker, a letter has come to my attention written by Mr. Samuel W. Collins of Tulsa, Okla., with regard to House Joint Resolution 191.

Mr. Collins has presented some very valid points with regard to this resolution and I would urge my colleagues in the House to review his letter:

S. W. COLLINS,
Tulsa, Okla., November 1, 1971.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Attached are my memorandums on "The School Prayer Issue". From my studies of this issue I cannot overemphasize the necessity of restoring prayer in our public schools through the proposed Constitutional Amendment. From my viewpoint here is why it is so important: Our forefathers built our nation upon the solid foundation of the Constitution of the United States of America and the first "stone" in that foundation is religious freedom as written into the First Amendment in the Bill of Rights. I have a strong conviction that this "religious stone" in the foundation of our Constitution is being removed when *we* "Park God Outside of Public Schools."

That is why I respectfully submit for your support these "Memorandums" of the proposed Constitutional Amendment.

Respectfully submitted,

SAMUEL W. COLLINS.

[From the Tulsa Daily World, Sept. 5, 1971]

OPPONENTS OF SCHOOL PRAYERS FEAR INJURY TO BILL OF RIGHTS

(By S. W. Collins)

Referring to this article on the Supreme Court's decisions in 1962–63. Those decisions according to Mrs. Ben Ruhlin amount to a decision to "Park God outside of school." She stresses the voluntary nature of the proposed amendment which reads:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

This amendment would allow the bringing back to a former, original condition of prayer in the public schools such as we have had in the past before this Supreme Court's decisions. However, it emphasizes that the prayers be nondenominational. Attached are five articles to show the necessity of this amendment: 1. Is Atheism the Religion of the Future in the U.S.A. 2. For a Constitutional

Amendment on Public School Prayer. 3. Nondenominational Prayers. 4. The Turning Point and 5. Religion and Prayer.

From the above article: "But Such an amendment still runs up hard against the *prohibtion* on religious practice." Does that mean that we must "Park God outside of school?" Of course it does not for the words—prohibition on religious practice—were not written in the Constitution of the U.S.A. Here is what the Bill of Rights on religion says: "Congress shall make no law respecting the establishment of religion or *prohibiting* the free exercise thereof". The proposed amendment does not change this law respecting the establishment of religion or prohibiting the free exercise thereof. But it does clarify the true meaning of this law in a way that is not compatible to the way the Supreme Court interpreted it. From a comprehensive study of the history of England, in connection with early American history, it can be stated with reasonable certainty that during the time when the religious clause in the Bill of Rights was written that it meant in effect that there shall be no law joining together an *established* religion and the state. It also meant as specifically stated: "or prohibiting the free exercise thereof". This latter clause in the Bill of Rights alone justifies making the proposed constitutional amendment. However, this proposed amendment simply clarifies the true meaning of the entire religious clause in the Bill of Rights.

In my opinion, the practical problems of the details involved in the successful administration of this proposed amendment and the protecting of the rights of those children who do not want to participate in such prayers should, under most circumstances, be studied and handled by the various states.

From my viewpoint, this issue of prayer in the public schools, which is so important to the future of our nation, has reached the stage of controversy where it should not be decided by nine men but by the peoples' decision on this Constitutional Amendment.

Is Atheism the Religion of the Future in the U.S.A.

(By S. W. Collins)

On Monday evening, March 23rd, 1971, I heard on TV Channel 11 the debate "Face to Face—Is Atheism the Religion of the Future?" Without making any comments on this discussion itself, which was well presented by Madame Murry O'Hara, the Atheist, and Dr. Edward Bowman, Protestant Minister, I had the feeling that through Madame O'Hara I was hearing Karl Marx expressing his bitterness about all religions and especially the Christian religion. Then my thoughts went back to the year 1959 when Premier Khrushchev of Russia visited the U.S.A. and said that our grandchildren would be living under (atheistic) Communism.

After an intense study of this possibility I wrote in 1962 the article, "Which America Is our Youth to Inherit?" Today, almost ten years later, that question remains unanswered. In our world there are many different kinds of religion including the atheistic religion of Communism and the Christian religion with diversified religious beliefs. Right or wrong every individual, according to his fingerprints, is a different human being who responds to the drawing power of some specific religious magnet that attracts him. Our forefathers recognized this right of religious freedom to choose their religious faith when they wrote the First Amendment to the Constitution on religion.

In this amendment they stated the following: "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof". In other words, from my studies of the meaning of this law, there shall be no law joining an established religion and the state together or prohibiting the free exercise thereof.

With this solid religious foundation, written into the laws of our land, why should the U.S.A. ever consider that atheism may be the religion of the future of our nation? Consider these reasons as the probable answer: In 1962–63, contrary to this foundation upon which our nation has been built, the doors of our public schools were closed to prayer but remained open to the atheism of Communism. Children in the formative years of their life *absorb* beliefs by the environment in which they live and without prayer in our public schools that belief which they *absorb* will be atheism. That is the main reason why the Godlessness of atheism may become the religion of the future in the United States of America—unless we restore prayer in our public schools before it is too late.

For a Constitutional Amendment on Public School Prayer

(By S. W. Collins)

Let us go back in time about one hundred years ago when the Supreme Courts of the past have stated that the government must be neutral in order to make absolutely certain that there would be separation of an *established* church and state. However, the meaning of "neutral" was never clearly defined by the earlier courts. At that time there must have been considerable controversy as to the meaning of "neutral" as the highly respected Dr. A. A. Hodge of Princeton University said, in effect, that strict neutrality is a great way to teach *atheism*. Evidently his strong remarks together with others helped create a tolerant meaning of neutrality so that a reasonable amount of nondenominational religion *could be and was practiced in the public schools*. For one hundred years and more we have had prayers in our public schools without jeopardizing religious freedom. In fact all religions thrived during that time. But since the Supreme Courts decision in 1962–63 what about the past almost ten years without prayer in our public schools? From my viewpoint that is what is jeopardizing religious freedom in the U.S.A.

In the establishment of justice for all, our laws and our courts have zealously protected the rights of minorities from the crushing power of majorities. However, in the separation of church from state in our public schools, is it not possible that a scattered majority might need legal protection from a concentrated minority? That is why there should be a Constitutional Amendment on this school prayer issue so that the scattered power of the majority can be collected to determine the verdict of the people.

The Meaning of the Word—Establishment

(By S. W. Collins)

"Congress shall make no law respecting the establishment of religion" was not a statement of *absolutism* as interpreted in 1962–63 by the Supreme Court for to be so would contradict the latter part of this law which states: "or prohibiting the free exercise thereof". To be compatible with this last clause it meant, in my opinion, that there shall be no law joining together an *established* religion and the state. I have been looking for further proof of this statement and I found it today in The American College Dictionary, 1952. The definition of the word *establishment* as given in this dictionary when referring to church is as follows:

"8. The recognition by the state of a church as the state church.

9. The church so recognized, esp. the church of England.

From this meaning of the word—establishment—which without any reasonable doubt was the one used in the religious clause in the First Amendment of the Bill of Rights one can say: Congress shall make no law respecting the recognition by the state of a church as the state church. That is why I say that there shall be no law joining together an *established* religion and the state. This also is a statement of *absolutism* in interpreting the meaning of this religious clause in our Constitution.

Nondenominational Prayers

(S. W. Collins)

In my Memorandum of 9–17–71 I expressed My Views—The Turning Point in U.S.A. History—A Constitutional Amendment Opening the Public School Doors to Prayer.

In these times of uncertainty only an optimist or a dreamer would make the above statement. I am both. But I say that with a feeling of conviction, provided the proposed constitutional amendment is one that allows participation in "nondenominational prayers" in our public schools and is made the law of the land.

Here are six reasons, in my opinion, why nondenominational prayers in the wording of this amendment are necessary:

1. They were a part of the unwritten laws of the land because for over one hundred years prior to 1962–63 there were a moderate amount of nondenominational prayers and religion in our public schools. During that time there was never any attempt to join state and church. In fact most religions (churches) prospered then and the morality of our youth was on a higher level than it is today.

2. Our public schools are one place in our nation that nondenominational prayers could reach our youth with understanding through prayers of communication between all religions. School teachers could have the feeling of religious freedom within the schools to express themselves to youth.

3. State and local authorities should be the ones to tell the school superintendents the kind of nondenominational prayers such as those prayers that are said in open session of the Supreme Court, the Senate and Congress which do not violate the proposed amendment or the religious clause in the Bill of Rights.

4. With these kind of prayers in our public schools all religions (churches) would find a source of new membership to build their future congregations and keep active and prosperous.

5. With the proposed constitutional amendment which was recently released from the House Judiciary Committee and the matching bill to the prayer amendment in the Senate SJ Res 34 made into law that would be a guide for the Supreme Court to use in any controversy regarding the meaning of nondenominational prayers.

6. This could be the "Moral Turning Point in U.S.A. History.

The Turning Point—A Constitutional Amendment Opening the Public School Doors to Prayer

(By S. W. Collins)

Why do we picture the morals of our youth on a toboggan slide going down hill and how can we change that picture? Lack of prayer in our public schools is one reason why we have this dilemma. Restoring prayer would reassure a picture of youth on the move upward keeping the U.S.A. a great nation.

Here is a chart picturing this downward slide of the morals of youth due to Our Parking God Outside of the Public Schools.

1. For *sixty-two years* a reasonable amount of nondenominational prayers could be and were practiced in our public schools without jeopardizing religious freedom.

2. Two years. God Parked Outside of Public Schools.

3. Seven years. These are the years of the toboggan slide where youth has the delusion, because too many older people do, that it is great fun to slide down the hill of moral decay.

4. One year. The Turning Point—*provided a Constitutional Amendment opens the public school doors to prayer.*

5. Eight years. The uphill climb restoring prayers to youth in the schools. (projected).

6. Twenty years. Prayer restored to youth in the public schools. (projected)

Our forefathers built our nation upon the solid foundation of the Constitution of the United States of America and the first "stone" in that foundation is religious freedom as written into the First Amendment in the Bill of Rights. It is this "stone" that is being removed from our Constitution when *we*, as Mrs. Ben Rhulin's youngest son said, "Park God Outside of Public Schools". She is asking the Congress of the U.S.A. to make a Constitutional Amendment restoring prayer in our public schools. From an analytical study of this foundation of religious freedom I have written this memorandum in support of her efforts:

RELIGION AND PRAYER

(By S. W. Collins)

Here is what Madame Chiang Kai-shek, a truly great Chinese woman said about religion and prayer:

In old Chinese art, there is just one outstanding object, perhaps a flower on a scroll. Everything else in the picture is subordinate to that one beautiful thing. An integrated life is like that. The one flower, as I see it now, is the will of God. But to know His will, and do it, calls for absolute sincerity, absolute honesty with one's self, and it means using one's mind to the best of one's ability.

Prayer is more than meditation. In meditation the source of strength is one's self. But when one prays he goes to a source of strength greater than his own.

I am often bewildered: I question and doubt my own judgment. Then I seek guidance; in prayer God enlightens my understanding, and when I am sure, I go ahead, leaving the results with Him. . . .

With me religion is a very simple thing. It means to try with all my heart and soul and strength and mind to do the will of God.

We are living in the dawn of the Atomic age of scientific laws of terrific power. This power in the hands of men, without guidance in prayer from a higher source of power, may be used to destroy mankind. But if the "WILL OF GOD", through prayer, is implanted within the minds of men *then* mankind will have the power to build a peaceful world.

That is why prayer should be restored in our public schools so that our children may become the men of tomorrow who will have that power.

Mr. CELLER. Mr. Speaker, since the adoption of our Constitution in 1787, we have had but 26 amendments to it. The first 10, of course, our Bill of Rights, were ratified in 1791. The fact that in the intervening 180 years since the ratification of the Bill of Rights the Congress and the States have seen fit to change our Constitution only 16 times, is a tribute to the marked foresight of our Founding Fathers, and an indication of how selective we have been and should be in changing our basic charter. Throughout the years we have recognized that the Constitution should not be reduced to a political poll, being amended to counter unpopular Supreme Court decisions and thereby injecting ephemeral moods into a broad, basic document intended to endure for ages. Most importantly, we must keep in sight the fact that none of the amendments which have been adopted have been directed to the Bill of Rights.

Let this be clear: a vote against House Joint Resolution 191 is not a vote against religious faith, nor is a no vote a yes for atheism. It is a vote which recognizes the Court decisions for what they really are. It is a vote steeped in the history of our country, recalling that a number of our States hesitated to ratify the Constitution until assured of the inclusion of a guarantee of religious freedom, and two of the States—Rhode Island and North Carolina—would not ratify the Constitution until the Bill of Rights had, in fact, been adopted. A no vote also recognizes that there can be no such thing as "nondenominational" prayer, that in a public school situation "voluntariness" of participation in prescribed prayer is an unrealistic concept, and finally, that despite the stimulated letter writing campaign, the major religious groups throughout the United States are concerned about where House Joint Resolution 191 may lead us.

Let me amplify.

Following the so-called school prayer decisions of the Supreme Court in 1962 and 1963, a ground swell erupted from coast to coast involving irate persons incensed by the action of the Court. Before long, the House Judiciary Committee had before it approximately 150 joint resolutions to amend the Constitution in one way or another. The primary objective of most of these resolutions was to legalize the recital of prayers and the reading of the Bible in public schools.

In 1964, the full House Committee on the Judiciary explored extensively all aspects of this controversial, highly emotional subject matter. For 18 days, over a 3-month period, the committee heard testimony for and against the then pending resolutions. The hearing record developed into three volumes, totaling 2,774 pages.

In the course of the hearings, it became clear that the decisions had been misread. By and large, the legal authorities who testified agreed that nothing in either case denies any of us the right to pray in public schools and public buildings, or even nonpublic schools or nonpublic buildings. Neither of the cases prohibits any of us from participating in nondenominational, or even denominational, prayer. And neither of the cases prevents prayer, whether or not those who wish to pray are lawfully assembled. Nor do the cases prevent the teaching about religion in its historical and cultural sense, as contrasted with dogma or creed. This, too, seems to be a point on which there is no disagreement.

Before inquiring into the nature and effect of nondenominational prayers, let us first consider who will produce them? Will teachers write the prayers? Will principals? Will school systems, as did the Board of Education of Union Free District No. 9, in New Hyde Park, N.Y.? Will the legislatures?

The cases which gave rise to all the furor simply precluded the prescription of prayers and the leading of prayers by public authority. To authorize government to intervene in the sacred privilege of prayer is to make Government a judge of theology and an administrator of religious practice. Prayers and religious practices should not be prescribed by law or by teachers or by public school administrators. Religion is simply not the business of the State. And it should not be made the business of the State!

Most organized churches oppose the amendment. Why? One basic reason is that it is a dangerous illusion to think that children can get a true religious experience through nondenominational prayer in public schools. Each religion confirms its faith in a form which bespeaks its basic tenets.

Statistics compiled 9 years ago by the Bureau of the Census disclosed the existence of some 200 different religious sects in this country. Of these, over 80 were found to have more than 50,000 members each. Here in the House, according to information compiled by the Congressional Quarterly and published in its January 15, 1971 issue, our membership belongs to some 25 of these religious sects.

Assuming that one could devise a nondenominational prayer, could it be meaningful? The hearings held by the Judiciary Committee in the 88th Congress were replete with testimony making it clear that any such prayer would have no religious value.

One witness characterized nondenominational prayer as a gimmick to salve our consciences by resort to ceremonial to make up for our shortcomings at home and in our churches. Another defined nonsectarian religion as one that "offends no one, makes no demands, and moves no one". A third sagely reminded the committee that to create a nondenominational prayer is to create an American religion which would not conform with any of the major faiths and would constitute inevitably a set of meaningless, watered-down, nonsectarian platitudes. Recitation of such a prayer would be a routine, vapid, mechanical exercise. As a matter of fact, reducing prayer to this lowest common denominator would, in my judgment, constitute an interference with the true exercise of genuine religion by those for whom the nondenominational prayer is foreign to their training.

One other thought should be kept in mind in this connection. Not only are the words to be used in a so-called nondenominational prayer difficult to formulate, but there are other aspects of prayer, as reflected in our churches and synagogues, which cannot be ignored.

In addition to having different prayers, people pray in different ways. Some religious group kneel; some do not. Some clasp their hands, some do not. Some bow their heads; some do not. Some pray with their heads covered; some pray with their heads uncovered. To some, all public oral prayer is theologically objectionable. How do you take these factors into account in devising a nondenominational prayer?

And what about our youngsters? Do we confuse them with our nondenominational prayers? When these prayers in school run counter to the students' training in their respective churches and homes, what confusions do we create? What questions do we raise? What inner conflicts and doubts do we arouse?

It is clear to me that religion cannot be inculcated through public schools or by lay people in other buildings. Rather,

to be meaningful, religion is something uniquely the province of the church and the home. To attempt to supplement, substitute for, or compete with religious teachings through prayer in public buildings is clearly not in the best interests of religion or of the people. The official publication of the United Presbyterian Church has wisely stated "if you have 'faith in general' you have no faith to speak of. Faith has to be 'something in particular'." This makes sense to me. Nondenominational prayer, whatever that may be, would, of necessity, be meaningless.

One final aspect of the joint resolution should be discussed—its effect on our children.

Can we honestly expect school children freely to decide whether to participate in prayer conducted in their school environment? I believe it is fair to say that almost without exception every witness who addressed this question during the extensive hearings conducted in the 88th Congress by the House Judiciary Committee said it is asking the impossible.

In concurring in a 1948 Supreme Court decision declaring it a violation of the first amendment to use the public school system and its machinery for compulsory school attendance to enable sectarian groups to give religious instruction to the students, Mr. Justice Frankfurter said:

> The law of imitation operates, and nonconformity is not an outstanding characteristic of children. The result is an obvious pressure upon children to attend.—(*McCollum* v. *Board of Education*, 333 U.S. at 227.)

One of the cases which gave rise to the spate of prayer resolutions is *Abington School District* against *Schempp*, decided in 1963. That case involved a Pennsylvania statute which required the reading of at least 10 verses from the Holy Bible, without comment, at the start of each school day. The statute provided that a child would be excused from participating in, or even attending, the reading, upon parental request. In his concurring opinion Mr. Justice Brennan had this to say about children, conformity, and psychological pressure:

> First, by requiring what is tantamount in the eyes of the teachers and schoolmates to a profession of disbelief, or at least of nonconformity, the procedure may well deter those children who do not wish to participate for any reason based upon the dictates of conscience from exercising an indisputably constitutional right to be excused. Thus the excusal provision in its operation subjects them to a cruel dilemma. In consequence, even devout children may well avoid claiming their right and simply continue to participate in exercises distasteful to them because of an understandable reluctance to be stigmatized as atheists or nonconformists simply on the basis of their request.
>
> Such reluctance to seek exemption seems all the more likely in view of the fact that children are disinclined at this age to step out of line or to flout "peer-group norms." Such is the widely held views of experts who have studied the behaviors and attitudes of children. (374 U.S. at pp. 289–290)

In addressing the same question, the New Jersey Supreme Court concluded that it "ignores the realities of life" to suppose that children of minority groups will not be subjected to pressures to conform, and to disadvantage in the eyes of their schoolmates, if they decline to participate in religious activities of the school. (*Tudor* v. *Board of Education*, 100 A2d at p. 866 (1953))

In Illinois, the Supreme Court of that State recognized 61 years ago the pressures attendant upon a student who must separate himself from his peers because of his religious beliefs. The Court said:

> The exclusion of a pupil from this part of the school exercises in which the rest of the school joins, separates him from his fellows, puts him in a class by himself, deprives him of his equality with the other pupils, subjects him to a religious stigma and places him at a disadvantage in the school, which the law never contemplated. All this is because of his religious belief." (*People ex rel. Ring* v. *Board of Education*, 92 N.E. at p. 256 (1910))

In Wisconsin, even before the turn of the century, the Supreme Court addressed itself to this question as follows:

> When * * * a small minority of the pupils in the public school is excluded for any cause, from a stated school exercise, particularly when such a cause is apparent hostility to the Bible which a majority of the other pupils have been taught to revere, from that moment the excluded pupil loses caste with his fellows, and is liable to be regarded with aversion and subject to reproach and insult. (*State ex rel. Weiss* v. *District Board*, 44 N.W. at p. 975 (1890))

The State of Iowa's highest tribunal has also recognized the pressure "to go with the crowd" which is characteristic in young people. There the court said:

> Conceding, for argument's sake, that such attendance was voluntary in the sense that no requirement or command was laid upon non-Catholic pupils to attend or take part in such exercises, yet surrounded as they were by a multitude of circumstances all leading in that direction, impelled by the gregarious instincts of childhood to go with the crowd, and impressed with a sense of respect for their teachers, whose religious principles and church affiliation were unceasingly pressed upon their notice by their religious dress and strictly ordered lives, could a responsible person expect the little handful of children from non-Catholic families to do otherwise than to enter the invitingly opened door of the church, and receive, with their companions, the instructions there given?" (*Knowlton* v. *Baumhover*, 166 N.W. at p. 205 (1918))

Many of us have youngsters of our own. From our experiences with them and with their friends, wholly unrelated to matters of religion, we know that young people are conformists, that they do not want to be different, "square," or "chicken."

They will often do what is alien to their instincts and their up-bringing rather than be a disappointment to their peers.

In short, I question whether the voluntariness factor contemplated by this resolution can be effectuated. If prayers become a part of their school routine, those whose religious training is offended by the nondenominational features, those who have no religious training, and those who for any other reason would prefer not to participate will, by reason of the attendant circumstances, be deprived of the opportunity to exercise a free, unfettered judgment. They will be trapped by human nature.

We should not approve a constitutional amendment which is calculated to put our children on such a spot. Particularly should we not do this, when our expectations for true, worthwhile benefits from nondenominational prayer are minimal. Such is the case before us.

In sum, the theory of House Joint Resolution 191 is dangerous, it is incapable of producing the result the American people have been led to expect of it, it would in no way advance, but would set back, the cause of religion, and it would bring about a divisiveness, which we will regret for years to come.

For the sake of true religious freedom, for the sake of protecting the Bill of Rights, I urgently beseech you to vote against the resolution.

Mr. FULTON of Tennessee. Mr. Speaker, this coming Monday the House will vote on what I believe could be the most far-reaching piece of legislation brought before it this session. I am referring to House Joint Resolution 191, the so-called prayer amendment to our Constitution. And when I describe this act as far-reaching, I do so as an understatement.

To read this bill, one might at first glance consider it almost innocent. It states, in part, that "nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

But it seeks, while supposedly promoting religious practice in America, to counteract the very words which for almost 200 years have guaranteed every American's right to worship where he would, as he would. It would destroy the first amendment to our Bill of Rights—that promise which, among other things, states "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

And it would, to my great concern, place us in the same league as our godless Communist neighbors—subjected to the threats and edicts of Government saying who should be praised, and how, and where, and when. Is this what our forefathers sought when they came to America? Let us look back and see.

Throughout Europe for hundreds of years, the dictates of government religions and persecution of those unwilling to yield were common. The Pilgrims had their trials. They were encouraged to accept for their religious study the Parliament-authorized Book of Common Prayer. They refused. They were then encouraged to leave Anglican England—and eventually established a religious colony in Massachusetts free of the English establishment's divine beliefs.

But, ironically, what this group, and others fleeing religious intolerance, sought to avoid for themselves, they imposed on others. They established their own colonial churches, which by 1776 had eight or 10 colonies preaching at least a semiofficial belief. They had their own colonial prayers. Prayers to be read at church, naturally, and prayers for town meetings, school classes, and community events. Prayers which continued to drive their dissenters from an intolerant community, for fear the true faith as they saw it would be abandoned, or even worse, watered into lukewarm platitudes.

Our Founding Fathers in 1789 believed

that, for the Nation to be united in spirit, its people had to grow through religious choice. They also recognized, however, that that choice for each individual had to be made freely—the state had no right to coerce or impose a majority will. As James Madison said:

> Who does not see that the same authority which can establish Christianity in exclusion of all other religions, may establish with the same ease any particular Sect of Christianity, in exclusion of all other Sects?

This was seen true of any religion, not just Christianity, and guarded against in 1791 when the first amendment was adopted.

In 1962 and 1963 decisions, the Supreme Court ruled that first amendment safeguards would stand. It would not bend to virtually sterile "prayers" and Bible readings leading the child from his family's teachings and freedom of belief.

For many years prior to the Supreme Court decision, 10 States had banned by their Constitutions the reading of prayers or Bibles in public schools. Another 15 said no to such actions by statute. And still another 10 looked on the practices with a discouraging view.

Furthermore, many religious groups are standing strong, opposing this amendment, supporting the Bill of Rights. These to date include:

American Baptist Convention.
American Ethical Union.
American Humanist Association.
Church of the Brethren.
The Episcopal Church.
Society of Friends (Quakers).
The United Methodist Church.
Mennonite Central Committee—Peace Section.
National Baptist Convention, U.S.A., Inc.
National Council of the Churches of Christ in the U.S.A.
American Jewish Committee.
American Jewish Congress.
National Council of Jewish Women.
Rabbinical Council of America.
Union of American Hebrew Congregations.
Union of Orthodox Jewish Congregations of America.
United Synagogue of America.
Lutheran Church, Missouri Synod.
Lutheran Church in America.
American Lutheran Church.
Progressive National Baptist Convention, Inc.
Seventh Day Baptist General Conference.
Southern Baptist Convention.
Council for Christian Social Action, United Church of Christ.
Unitarian Universalist Association.
United Presbyterian Church in the U.S.A.

Also, an editorial by Mr. Henry Clausen, sovereign grand commander, Southern jurisdiction, Ancient and Accepted Scottish Rite of America, in the November New Age magazine urged defeat of the amendment. He called it the "foot in the door, the camel's nose in the tent, sure to result in further and eventual fatal intrusions."

Passage of this bill could, rather than expand the use and value of prayer in public facilities, literally reduce its meaning to nothing and make replacement by any other working unlawful.

For instance, should you be in a public financed or supported hospital—and most hospitals do receive State or Federal funds—your pastor, priest, or rabbi can now offer any prayer he and you feel appropriate. Should the bill pass, your choice of prayers could drop to one—nondenominational.

Or picture Evangelist Billy Graham seeking to hold a crusade in Washington's U.S. Armory-owned R.F.K. Stadium. He could preach his Gospel message—as long as he prayed to "Whomever this may concern." This, I believe, would fall short of his normally powerful address.

Or what about all the religious organizations on campus and in the working world—the Baptist Student Union, Elder Statesmen, Fellowship of Christian Athletes, Wesley Foundation, YMCA, YWCA, WMHA, the Hillel Foundation, and others. All are organizations in which prayer serves a vital part of their program, and carries their deepest message. Why not pass this bill—and watch their efforts on public campuses waste like soda without its fizz.

Yes, why not pass this bill? Let me list what I feel to be five solid reasons.

First, the position of God in the heritage of America is already recognized and assured. "In God We Trust" is on our currency. "Under God" are words from our Pledge of Allegiance. Chaplains remain in the Armed Forces. Classroom Bible study is still allowed for use in comparative religion or literature. And any student, teacher, or person may recite a silent prayer at any time, anywhere.

Second, many major questions as to what passage would, and not just could mean remain largely unanswered. This is particularly true since general debate once the bill is discharged from committee is limited to just 1 hour with proponents in control and no amendments allowed.

These unanswered questions include:

The first amendment both prohibits establishment of a state religion and provides guarantees for free exercise of religion. With the first amendment overridden, what guarantees of religious toleration would remain?

Also:

This new measure specifies use of a nondenominational prayer. I might ask—written by whom?

And:

Who is to say the teaching of this "nonreligion" religion should become the public school's responsibility? The parents? Does not it make more sense for parents to want to raise their children strong and upright in their own meaningful beliefs? Beliefs gathered at home and in the church or synagogue?

To this last point, I definitely say "yes." I am a parent, trying to raise children to be mindful of God's ways and Christian teachings. I, throughout my life, have sought to make more meaningful my own life with God, through a personal relationship to Him, my church, and its Sunday School in which I teach.

I value my religion and value my children's religion. I do not value a state religion, or even "just" a nondenominational prayer.

Because to me, this is no religion at all.

I will vote against the amendment.

Mr. MIKVA. Mr. Speaker, a great deal has been said about the first amendment impact of the proposed amendment. I am in full accord with my colleagues in the House and in the legal community who are gravely concerned about the first amendment implications of making the State the arbiter of what is a permissible "nondenominational" prayer. The Supreme Court has never placed any restrictions on voluntary prayer; it was compulsory school prayers which were the subject of the decision in the Engel case. The proposed amendment would authorize compulsory prayers in State-supported schools, so long as the prayer used met someone's criterion of what is "nondenominational." Along with numerous church leaders and religious groups, I view with great concern the breakdown in separation of church and state which would inevitably occur when State legislatures and Federal courts undertake to adjudicate competing claims over what is or is not "nondenominational" prayer.

Unfortunately, in the heated debate which has surrounded this proposed amendment, little concern has been shown for the primary victims of compulsory school prayer—the children who are forced to participate.

I am surely not the only person in this chamber who, as a child, attended a school where a majority of my schoolmates were of a religious and cultural heritage different from my own. Surely there are others in this chamber who shared the uneasiness I felt as I shifted from one foot to the other in silent discomfort while the class prayed to a God I did not believe in, from a tradition I did not share.

Prayer is a private thing, between a man and his God and my God is not nondenominational, and neither is yours, I do not want my children's prayers to start out "To Whom It May Concern." It is meaningless unless it is voluntary. The words must come from the soul, not from the school board. We would do well to heed the wise words of the New Testament on how to pray. Said Jesus:

> Do not be like the hypocrites, they love to say their prayers standing up in synagogue and at the streetcorners, for everyone to see them. I tell you this: they have their reward already. But when you pray, go into a room by yourself, shut the door and pray to your Father who is there in the secret place; and your Father who sees what is secret will reward you.

We will not make up for the failures of churches and families to instill religious faith in the young by imposing forced worship in the schools.

For the sake of our children, as well as our Constitution, let us reject the proposed amendment.

Mr. McKAY. Mr. Speaker, a constitutional amendment which will radically alter the existing relationship between church and state in America and which will mark the first constitutionally imposed limitation of religious practice in our history is now under congressional consideration. The proposed amendment reads:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the

expenditure of public funds, to participate in nondenominational prayer. (H.J. Res. 191)

The fact that this proposed amendment appears on the surface to be beneficial is what makes it so dangerous, and at the same time so popular among some groups. I have never believed, however, that a public official should abandon what he knows to be right just for political popularity.

I am deeply concerned that the effects of this proposed amendment are not fully understood, nor is the magnitude of its proposed change fully appreciated.

First. The amendment could result in a severe diminution of our religious freedom since the only kind of prayer which, under its terminology, could be said in any public building is a "nondenominational" prayer. I am quite horrified at what could result if prayers which are currently being offered in all kinds of public buildings were challenged in the courts by those who felt the prayers were too "denominational." All of this could result in a de facto state religion of nonsectarianism.

Second. Since the only prayers this amendment would allow would be "nondenominational prayers," it would undoubtedly fall upon the courts to interpret this requirement. Thus, local district courts and, perhaps ultimately, the Supreme Court, would have to determine which prayers were nondenominational and, hence, acceptable. Once decided, local school districts and other public officials, in order to be "safe," would probably use only such "cleared" prayers. The final effect of this process would be that government, through the courts, would be prescribing forms of public worship. This is the very condition which the first amendment has prevented for 180 years and which the Founding Fathers wanted to avoid when they wrote the freedom of religion clause into the Constitution.

Third. Another problem associated with nondenominational requirement is that it may be neither desirable nor possible to construct a "nondenominational" prayer. It may be impossible because the protection which the Constitution extends to all religious denominations, and which the Court has said is extended to atheists, may prevent any mention of God in any such prayer. In *Torasco* v. *Watkins* (367 U.S. 488) the Court pointed out on page 495 that some religions are not founded on a belief in the existence of God and in a footnote listed some of them. The famous New York State Regents' prayer which was disallowed by the Supreme Court in the Engle case may appear on first reading to be nondenominational. Yet, Edmond Cahn, in the New York University Law Review (Dec. 1962), lists at least 10 groups whose religious beliefs would be offended by that seemingly innocuous prayer. Thus, the Court has suggested quite clearly that any reference to any Supreme Being would make a prayer denominational and, hence, unacceptable.

Fourth. Nondenominational prayer is undesirable, from my own point of view, because any such "to whom it may concern" type of prayer which would meet the "nondenominational" requirement is not the kind of prayer that I want to offer in public places nor is it the kind of prayer in which I want my children to participate. I can think of no greater disrespect to God than to relegate Him to a minor inconvenience before roll call. I want my children to pray to their Father in Heaven. I want them to pray in the name of Jesus Christ. And I want them to pray voluntarily, spontaneously, and meaningfully. None of these may be possible under the proposed amendment.

Fifth. It also should be noted that the proposed amendment is unnecessary. Prayers are being offered every day in public buildings all across this Nation from the halls of Congress to local city halls. They are even being offered in schools. The Supreme Court never did abolish prayers in schools—they merely prohibited Government from writing or selecting those prayers. In fact, the Court said:

> Nothing, of course, could be more wrong than to interpret this decision as expressing hostility toward religion.

The Court went on to say that:

> The state may not establish a religion of secularism in the sense of affirmatively opposing or showing hostility to religion.

As Dallin Oaks, now president of Brigham Young University, said in his article in the Improvement Era in 1961, the *Engle* case "breathes resentment, not against prayer, but against State-required and State-authored prayer." Even in the public schools, daily prayer has been allowed by the Courts so long as certain steps were taken to avoid direct participation in those prayers by the State. See *Reed* v. *Van Hoven*, 237 F. *Supp.* 48 (W.D. Michigan, 1965).

Six. Not only is the amendment unnecessary, it could possibly unleash divisive forces of competing religions—each fighting for a version of a "nondenominational prayer" favorable to their particular doctrine. In fact, history is replete with instances in which nondenominationalism and nonsectarianism have been used as a guise under which a majority religion has imposed its doctrine on minority religions. Much of the conflict which caused our forebears to leave England was over which version of the Scriptures should be used in school and in public places.

Seven. The proposed amendment runs counter to the first amendment in our inspired Constitution. The first amendment reads:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

The proposed prayer amendment would limit the free exercise of religion in public places by requiring it to be nondenominational, whatever that may be interpreted to mean. I do not want to lose this first amendment freedom for the proposed amendment. Those who complain when the Court prohibits a form of state-sponsored religious expression to which they have become accustomed should remember two things. The same first amendment also protects religions from attack by the state—matter of *Panarella* v. *Birenbaum*, 302 N.Y.S. 2nd 427, 1969—and to quote again from Dallin Oaks:

> The same procedures that the Supreme Court has approved to bar school prayers . . . can now be used to eliminate secularistic influences from the public schools.

It is apparent that I feel very strongly about this proposed amendment. My own religious group has had too much of a history of persecution to let any attempt to diminish our first amendment protection of religious freedom go unnoticed

Mr. PODELL. Mr. Speaker, I rise today in opposition to House Joint Resolution 191, the proposed constitutional amendment that would authorize prayer in public schools and public buildings.

It is no mere accident that the Bill of Rights has never been amended throughout the course of American history. The 10 amendments to the Constitution which spell out the fundamental guarantees of human liberty have withstood the changing winds of doctrine with remarkable durability, maintaining their indispensable role as a bulwark of the oldest written operative constitution in the world.

The first amendment, which guarantees religious freedom, was written by men who had seen and deplored the frightful sectarian persecutions in Europe and the establishment of mandatory faiths. They were determined that in America men would be free at last to pursue their own religious beliefs without governmental interference.

To this end, the Founding Fathers desired to create a wall of separation between church and state. They were deeply convinced that religion flourishes best when it is the responsibility of the church and the home. They also realized the profound psychological truth that religion thrives where it is voluntary rather than dependent on the coercive power of the state. James Madison, coauthor of "The Federalist Papers," formulated the rationale for church-state separation when he wrote:

> It is proper to take alarm at the first experiment of our liberties . . . Who does not see that the same authority which can establish Christianity in exclusion of all other religions may establish with the same ease any particular sect of Christians, in exclusion of all other sects?

The proposed constitutional amendment which we are considering, far from introducing unity into our national life, would paradoxically proscribe and distort freedom of religious expression and would serve as a divisive force. It would make government an arbiter of religious faith. It would authorize government to intervene in the sacred privilege of prayer and would make the government both a judge of theology and an administrator of religious practices.

After the Supreme Court, in Engel against Vitale, 1962, and Abington School District against Schempp, 1963, decided that prayer in school was a violation of the freedom of religion clause of the First Amendment, many irate Americans charged that the Court had "expelled God from school," and many of our citizens took the decision as an indication that the Court was hostile to religion. This is far from the case. In fact, we Americans always were and still are guaranteed the right to participate in prayer, whether nondenominational or

denominational, and in buildings both public and private. All this is guaranteed to us under the free exercise of religion clause of the first amendment. What the High Court said, in effect, was not that you may never pray in school as an individual but that when prayer becomes coerced, it is not the free prayer which is assured by the Constitution.

Prayer in its very essence is voluntary. It should come willingly from the spirit. To the believing member of a church or synagogue, prayer is a personal dialog with the Almighty. Such a dialog cannot rightly be frozen into a formula by the state.

Supporters of the prayer-in-school amendment assert that the use of a nondenominational prayer would avoid the problem of religious coercion. In reality, it would not provide a solution to that problem but rather would create a far more serious difficulty. As 38 religious leaders and organizations pointed out in opposing the measure, it is impossible for the major faiths to agree on what constitutes nondenominational prayers.

Someone would have to select or write the prayer. It might be a State legislature or a local school board or an individual teacher. In any event, allowing State or local officials to write a religious statement would have the disastrous effect of politicizing prayer. It would create the clear prospect that the legislature or the school board would write or choose a prayer reflecting the majority will of the community and in the process impinge upon the beliefs of the minority. Many Americans believe it is impossible to write a nondenominational prayer that will satisfy Baptists, Methodists, Jews, Mormons, Lutherans and Catholics, as well as the devotees of the many other religions practiced in our country. I strongly share their belief.

I cannot emphasize too strongly my conviction that true religious feeling is learned in the home and in one's place of worship. To strengthen our national sense of religious purpose, we must strengthen our homes and churches, not bureautically impose a weak, bargain-basement civic religion on our children and adult groups as if they were puppets.

In these troubled times, Americans need true religion, not transparent religiosity. Our people want real religious commitment, not fabricated surface piety. We need voluntary meetings of the devout, not captive audiences for prayer.

A vote for House Joint Resolution 191 is not a vote for enhancing the role of religion in our country. It is a vote for spurious mechanization of the spiritual. It is a giant step backward from freedom.

While the proposed prayer amendment may seem acceptable on the surface, it is in reality an erosive step that would weaken our Nation's religious liberty. The plain fact is that adoption of this amendment would create more problems than it would solve. Most harmful, it would encourage the divisiveness and angry passion that have always marked religious quarrels. I urge my colleagues to vote against this resolution that would tamper with the fundamental liberties bequeathed to us by our Founding Fathers in the Bill of Rights.

Mr. ROY. Mr. Speaker, we are discussing a most important and emotional issue, as has been pointed out many times. It is so easy to paint the question as one of support or lack of support for prayer. This is ridiculous, as we all know.

The true question is not whether we as individuals believe in prayer and in religion itself, but how we can best support the religious beliefs which we hold important.

Supporters of House Joint Resolution 191 claim they want to restore prayer to our schools and thus take at least one step toward retaining the religious heritage of the United States. To begin with, prayer does not need to be restored to our schools. There has never been any sort of ruling to prevent a child from praying in school.

There have been Supreme Court decisions removing government-sponsored prayer from our public schools. These decisions were based on the first amendment to our Constitution, which states in part:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

This country was founded by men and women who felt religion was a personal matter, something to be dealt with by each individual according to the dictates of his conscience. It is an area in which government does not belong. That is the reasoning behind the first amendment.

The prayer amendment would stand in opposition to this reasoning. It states:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

The application of this principle to our schools would open a Pandora's box of questions: Would subtle pressures be applied to the children who refuse to take part? What agency would be entrusted with writing the nondenominational prayer? What religious benefit would really be gained from such a watered-down expression of piety?

In many ways there is a rather plaintive note to many of the letters I have received urging my support of this resolution. One woman expressed herself this way:

> As one of your projects I would like for you to consider the subject of putting prayer back in the schools. That is the only way some children ever hear the word of God.

Unfortunately, that may be true. But it is not the responsibility of the schools to correct the situation. It is a duty of the schools to discuss religious movements as they relate to world history and read portions of the Bible in literature courses. Religion has been important to man as long as he has walked on this planet.

Despite a lack of religious training in many facets of everyday life, however, it is not the place of our schools to make up for this deficiency. No agency of government should attempt to inculcate religious beliefs in any form. To make such an attempt is to invite sectarian strife which would damage the freedom of religion which we all hold dear. Religious leaders know this. That is why the overwhelming majority of them have expressed opposition to this resolution. Their lives are devoted to a furthering of religious devotion, yet they realize that the prayer amendment would not only not further such devotion, but in fact would harm the atmosphere in which devotion is possible.

I would like to quote from a letter which the pastors of five churches in my hometown of Topeka, Kans., sent to a local newspaper:

> It is not that we do not want praying pupils and praying teachers. It is simply the fact that we agree with the Supreme Court that such practices are in violation of the "establishment of religion" section of the First Amendment. We believe that these decisions enhance and strengthen religious liberty in the country. Such liberty would be endangered if a school board, or a teacher representing that board, could lift up any preferred form of religion for common exercises of worship in a school room which might have pupils holding to different faiths.

Similar sentiments have been expressed by virtually all religious groups in the United States, including the National Council of Churches, the U.S. Catholic Conference, the National Jewish Community Relations Advisory Council, the American Baptist Convention, the United Methodist Church, and many others.

There are other reasons why this resolution should be defeated. As the first restriction on the Bill of Rights, the prayer amendment would establish a dangerous precedent. The legal battles arising from trying to agree on "nondenominational" prayers would be injurious to all concerned.

But the basic reason for opposing the prayer amendment is that it would not do what it is supposed to do. As a religious man, I firmly oppose any measure, such as this one, which would damage the spirit of religious freedom in this country.

Let us put our faith in God, but let us do it each in his own way.

Mr. RARICK. Mr. Speaker, I find it strange that the major opposition to the prayer amendment comes from religious leaders. Most would expect that church leaders would be leading the fight for prayer since "more good is wrought by prayer than this world dreams of." An assortment of educated explanations are offered to avoid saying that they do not want children to pray in school.

Bill after bill comes through Congress to provide taxpayer funds to be used by religious institutions for education, poverty, and medicine; yet I have never received the first letter objecting that such legislation constitutes a violation of the separation of church and State.

America's children in many areas are forced to submit to forced busing to a distant school to be used as guinea pigs in experimental programs. While in the schools and without parental approval, children are taught sex as if it is a basic educational course, made experts on drugs, exposed to pornography labeled as art, and compelled to read and appreciate perversion and subversion called

literature. Yet not one organized church group has been heard to complain about this indecency or to lobby for decency in our public schools.

The American school children are sometimes required to read the "Communist Manifesto," "Das Kapital," and the works of many radical extremists who oppose constitutional government and the American free enterprise system, but they are forbidden to study or read the Bible.

Those who oppose letting the children pray in school have gone so far as to claim that prayer violates religious freedom.

One segment of our society protected under the Supreme Court rulings is the antireligious—the atheistic. Apparently, many of our church people have forgotten Madeline Murray, the professed atheist who demanded that atheistic rights be protected in public schools.

Present Supreme Court rulings which established humanism as a national religion in violation of the first amendment is more in keeping with article 124 of the Constitution of the Soviet Union, which reads as follows:

> In order to insure to citizens freedom of conscience, the church in the USSR is separated from the state, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

The prayer amendment, House Joint Resolution 191, does not weaken the first amendment—it strengthens it. The prayer amendment but repeals the anti-constitutional prayer rulings of the Supreme Court, which violate the first amendment and has provoked the crisis with which we are now confronted.

Prior to the Supreme Court decisions, our children were allowed to pray in school; and except for the atheists like Mrs. Murray, the overwhelming majority of the American people—including church leaders—must be assumed to have approved of prayer in public schools. In the first 173 years of our country's existence when there was prayer in our schools, there was far more morality and respect for one's fellow man and far less crime and violence than there is today.

The issue of the prayer amendment is very simple—are we again going to allow our children to pray in school or are we going to support the Supreme Court's humanistic rulings now being defended by many church leaders who believe that there is something wrong about giving children the chance to pray in public schools?

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and include extraneous matter on the subject matter of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

TAKE PRIDE IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The American people have access to the best foodstuff available. The average caloric-per-day consumption level for the U.S. citizen is 3,200 calories a day as compared to 1,810 per day in India.

LET'S STOP PICKING ON CANADA

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, our bumptious and self-righteous posture on trade and monetary problems is not much helping our balance of payments, and is fast losing us friends all over the world. Nowhere is this posture more damaging and less warranted than in our relations with Canada.

Canada and the United States have developed the largest bilateral trade flow of any two nations in the world. In 1970, the United States exported some $9 billion in goods to Canada, representing 22 percent of U.S. exports and 75 percent of Canadian imports. In the same year, we imported some $11 billion in goods from Canada, representing almost 30 percent of our imports and some 70 percent of Canadian exports.

Yet to judge from the treatment we have accorded Canada since the President's August 15 announcement of his new economic policy, Canada is neither a great neighbor whose good will we particularly value, nor our best trading partner, nor our biggest export market.

No, Canada is just one nation among others who should be grateful to us for all the international burdens we have shouldered these many years. No, Canada is just one trading partner among others. And if she is to be singled out at all, it is because after years and years of running a deficit in her merchandise trade with the United States, she has dared over the last several years to run a surplus in this trade—a wrong for which we can claim redress.

So on August 15, we slapped a 10-percent surcharge on imports from Canada along with those from everyone else. And to bolster our competitive advantage, we proposed not only to subsidize our exporters but to exclude Canadian and other foreign manufacturers from the benefits of the 7-percent investment tax credit.

In taking these steps, we blithely chose to overlook the fact that Canadian-United States trade, however mutually beneficial, looms far larger in the Canadian economy than in the U.S. economy. Our surcharge affects some 25 percent of Canadian exports and most hurts labor-intensive industries in Canadian provinces already suffering from high unemployment.

We have blithely turned our blunderbuss on Canada when, to the extent that we have legitimate grievances on trade restrictions and undervalued currencies, they chiefly involve Japan and the countries of the European Common Market. Indeed, Canada floated her dollar in May 1970, and since that time it has appreciated in value vis-a-vis the U.S. dollar by some 7 percent.

If the administration could not bring itself to exempt Canada from the import surcharge, as it should have, even at the risk of compounding our violation of GATT rules, it could at least have shown understanding for Canadian complaints and given assurances that the surcharge would be removed just as soon as international currency realinement was achieved.

But Secretary of the Treasury Connally has left our Canadian friends as much in the dark about his intentions and objectives as the other leading industrial countries, who have nevertheless expressed their willingness to strike a good bargain on currency realinement. Worse, the Secretary and his spokesmen have apparently added insult to injury by telling Canadian officials that Canada should look to the extraction and partial processing of raw materials for exports, abandon plans to diversify her economy, and leave the production of finished goods to us.

Seemingly, the United States has a long list of Canadian trade barriers which we would like to see removed. But if the list leaked to the Chicago Tribune on October 10 is authentic, and it appears to be, it could probably be matched item for item by similar U.S. trade restrictions.

To be sure, the 1965 United States-Canadian auto free-trade agreement, which included special protection for Canadian companies, probably stands in need of revision. And Canadian subsidies which permit subsidiaries of companies based in third countries—for example Michelin tires—to export more cheaply to the United States, are probably unduly generous at our expense.

But to my knowledge, prior to the August 15 surcharge and the deaf ear the Treasury offered worried Canadian officials a few days later, Canada showed no reluctance to sit down and discuss outstanding differences on trade and economic policy with us. Understandably, with what Canadians view as a club held over their heads, the Canadian disposition to talk has recently weakened.

There have been more than enough frictions in Canadian-American relations in recent years—over fishing rights and energy resources, over Vietnam and China policies, over the domination of key sectors of the Canadian economy by U.S. business interests. Canadians are already unpleasantly conscious of our wealth and power and the dependence of their economy on ours. Why confirm their worst suspicions—that when it comes to getting our own way, we are ready to throw our weight around with a vengeance and trample all over the sensibilities and interests of a good friend and neighbor?

The shabby treatment we are according Canada is part and parcel of a policy that assumes we can afford to go it alone until others meet all our demands for the realinement of currencies, lifting of trade restrictions, and sharing of defense bur-

dens. But why should other nations accept all the responsibility for our balance-of-payments difficulties, when these are as much a result of our own sins and omissions as theirs?

The longer we pursue our present course of bluster and swagger in international economic affairs, the more we stand to lose. We risk retaliation for the protectionist measures we have adopted to club others into seeing our way. We will exhaust the existing disposition of others to negotiate a reasonable currency alinement in which we give a little along with them. And we will erode the trust and good will that have made postwar cooperation in trade and finance work well, and which are needed to make it work better.

To restore a healthy United States-Canada relationship there must be achieved within the next few weeks a realinement of currencies coupled with the withdrawal of the import surcharge. The need for such action was well expressed by Dr. Arthur F. Burns, chairman of the Board of Governors of the Federal Reserve System in the following colloquy before the House Banking and Currency Committee on November 1, 1971:

Mr. REUSS. Dr. Burns, you have quite properly mentioned the international monetary implications of the President's new economic program, and I would like to ask you about that. There apparently is under discussion a proposal for working out the first phase of the international monetary mess that we are in, and so far as I can delineate, it seems to consist of:

1. A realignment of major currencies with something on the order of a five percent devaluation of the dollar, accompanied by a significant revaluation of the yen and the mark, and somewhat smaller amounts for other major currencies.

2. A broadened band within which the currencies fixed at these new parities could fluctuate.

3. An agreement, on the part of our major trading partners to negotiate a better sharing of the military burden, negotiate down trade barriers, and to negotiate a new and improved international monetary system.

4. The rescinding of the ten percent import surcharge.

There seems to be a difference of opinion within this country on whether this would be a good deal for us. I hold the view that it would be a good deal, and that we ought to move towards something like that. On the other hand, some friends of mine seem to be opposed to any kind of devaluing of the dollar, whether for reasons of prestige or not, is note quite clear, and instead seem to say: Well, we can go on just as we are, and we can keep the ten percent import surcharge in effect all of this year and for the indefinite future.

Into which camp would you put yourself?

Dr. BURNS. Well, I would—

Mr. REUSS. Do you agree with me that something like this would be a good deal and that we should not be doctrinaire and should try to work it out?

Dr. BURNS. I am going to be very general, and I hope you do not think I am evasive in replying to your question. I will not be very specific because some delicate negotiations are now in process and I do not think I ought to comment on them.

But, in general, let me say that my judgment is: first, that economic theology must be avoided. We should not be doctrinaire in our thinking and in our approach.

Second, in my judgment those who feel that time is on our side, and that we can be relaxed about reestablishing the international monetary order, and that we can be relaxed about the import surcharge, I have grave doubts about that. In my judgment time is on nobody's side, and what we should do is try to return to a viable international order for the sake of our economy and for the sake of harmonious political relations with the rest of the world.

Mr. REUSS. To all of this I say, "hooray." I think that is an excellent and nonevasive answer.

With currencies realined and the surcharge removed, the process of reconciliation with Canada will have been well begun. It can be completed only if we abandon our present disposition to take Canada for granted and recognize that the benefits of a good neighbor policy, like the benefits of trade, flow two ways.

I include an October 24, 1971, Washington Post article by Claude Lemelin, associate editor of the Canadian newspaper Le Devoir of Montreal, which traces the rapid deterioration in Canadian-American relations since August 15:

CANADA: OUR FURIOUS FRIEND

(By Claude Lemelin)

MONTREAL.—Relations between Canada and the United States have become increasingly strained since Aug. 15, when President Nixon jolted the international community by imposing his 10 per cent import surcharge and floating the U.S. dollar.

During the two months since then, the tone of public and private communications across the celebrated "longest undefended border in the world" has been raised to a new and grating pitch. Relations between Ottawa and Washington, once cited to the international community as a paragon of harmony, have deteriorated to the point where mutual distrust delays the resumption of fruitful negotiations.

A watershed may have been reached in U.S.-Canada relations. Even if the two nations succeed in patching up their disagreements in the coming months, it may well be that they are destined to grow further apart. Certainly, the Nixon administration's unilateral disruption of trade across the 49th parallel—the most intensive in the world—has compelled the Trudeau government to grope for an alternative to North American integration for the Canadian economy.

Such an "agonizing reappraisal" — a borrowed phrase used by Canada's Minister for Trade and Industry, Jean-Luc Pépin, in a speech delivered in Houston earlier this month—would merely extend to economic policy a basic decision taken three years ago by the Trudeau government in the field of foreign policy. To dilute the pervasive American influence that grew out of Canada's special and privileged postwar relationship with the United States, Ottawa then decided to "diversify" its foreign policy by establishing diplomatic relations with China and developing closer links with the Soviet Union, as well as by tightening existing relations with Europe, Japan and other countries in the Pacific basin.

It is unlikely that an early removal of the American import surcharge would end the search in Canada for an economic alternative. Come what may, Ottawa is expected at the very least to pursue with a new urgency its drive for diversification of Canada's economic relations.

"What happened once can always happen again," a government official close to Prime Minister Trudeau remarks. "We can no longer afford to be without contingency plans in the face of future isolationist moves by the U.S. government."

Last week, Soviet Premier Alexis Kosygin's visit to Ottawa provided the Trudeau government with the opportunity to explore one such alternative: The expansion of trade and economic cooperation with the Soviet Union. A general exchanges agreement was signed, providing for regular contacts and possibly joint scientific and cultural projects, and both the Canadian and Soviet leader expressed high hopes for future trade between the two countries. But despite Trudeau's use of Mr. Kosygin's visit to induce the Nixon administration into a more amenable posture on U.S.-Canada economic relations, the Canadians harbor no illusions about the significance of the Soviet "alternative." No matter how fast Soviet-Canadian trade expands in coming years, it could not possibly compensate for any substantial shortfall in Canada's exports to the United States.

THE AUGUST 19 MEETING

The relentless deterioration in U.S.-Canada relations began at a meeting in Washington on Aug. 19, during which Treasury Department officials questioned the long-term viability of Canadian manufacturing industries within the North American economy and raised doubts about the desirability of maintaining relatively free access to the U.S. market for those industries. The same officials also indicated that policies recently implemented by Canada to spur the development of technologically advanced industries north of the border were unacceptable to the United States and suggested that Canada specialize instead in the extracting and processing of raw materials for American industry.

During the meeting, held at the urging of the Canadians and attended by Finance Minister Edgar Benson and his colleague Jean-Luc Pépin, Treasury Secretary John Connally refused to exempt Canada from the 10 per cent import surcharge. But the Canadians were less disturbed by Connally's rejection of their one specific request, which they half-expected, than by his officials' open challenge to the continental assumptions that have guided Ottawa's economic policies for more than a quarter century.

Unlike Japan, Britain and the Common Market countries, Canada was not unduly disturbed by the monetary aspects of President Nixon's new economic program. But the import surcharge and the "buy American" clause attached to the 7 per cent investment credit now before Congress were quite another matter.

Canada's exports to the United States reached $10.2 billion last year—representing 68 per cent of Canada's total exports and almost 15 per cent of her gross national product. The surcharge would severely affect more than a quarter of Canada's exports to America—$2.5 billion of goods—while the "buy American" clause would jeopardize an additional $300 million of Canadian machinery exports southward.

Canadian officials claim that such drastic curtailment of foreign trade would destroy in a single year more than 100,000 jobs, thus raising Canada's already high unemployment rate—7.1 per cent last month—by two full percentage points at the very least. Given the fast growth of the labor force and the inevitable concentration of unemployment in Quebec, the French-speaking province where separatist sentiment has been growing steadily in recent years, this prospect horrifies the Trudeau government.

In addition, the substantial tax break the United States would grant to the Domestic International Sales Corporations (DISCs) proposed by President Nixon would significantly reduce business investment in Canada. The DISCs—which Canadian officials maintain would violate the General Agreement on Tariffs and Trade—would receive long-term deferral of U.S. income taxes by acting as U.S. firms' domestic funnels for foreign sales, thereby encouraging the firms to substitute exports from American plants

for production by overseas subsidiaries. About half of Canadian manufacturing industry and more than 60 per cent of resource industries are owned and controlled by American corporations. Consequently, any substantial discentive to foreign investment enacted by Congress is bound to bring about economic stagnation in Canada.

For all those reasons, the Canadian cabinet decided on Aug. 16 to press at the earliest opportunity for an immediate and unconditional exemption of Canadian products from the import surcharge. Canadian embassy officials in Washington had strongly advised against the ministerial trek; U.S. Treasury officials had let them know that Secretary Connally had more pressing things to do than listen to Canadian grievances, and that the administration could not afford to take anything but a hard line.

But the Trudeau government could not afford to ignore internal political considerations: Not to go to Washington would have provided opposition parties with choice ammunition a few months away from the next federal elections. It was also felt in Ottawa that, even if an early exemption from the surcharge could not be expected, a top-level meeting would still be useful, if only to probe the Nixon administration's long-term views on U.S.-Canada relations and to remind it of the disastrous impact its new "game plan" would have on the Canadian economy.

After the rebuffs of the Aug. 19 meeting in Washington, the Canadian cabinet quietly began to draw up—almost from scratch—contingency plans to safeguard the country's economic interests. What shocked the Canadians into this fundamental economic review was not so much the U.S. Treasury's emphasis on the admittedly substantial bilateral balance-of-payments surplus from which Canada has benefited in the last two years—the first such surpluses since 1891. (Ottawa and Washington don't even agree on figures; according to Canadian statistics, the surplus was $1.1 billion in 1970, while U.S. statistics put it much higher, at $1.6 billion.) The Canadians were totally unprepared for a major onslaught against Canada's industrial development policies, an onslaught that could easily have been construed as an unwarranted American intrusion in the country's internal affairs.

REPORT OF THE U.S. VIEW

Canada's Trade and development policies toward the United States are essentially mercantilist, U.S. Treasury officials are reported to have said. Not only do Canadians want to sell their natural resources, for which the United States has an urgent need, but they try to expand by all possible means—efficient or not—their output and exports of manufactured goods. Whenever the Canadian government agrees to import anything from the United States—be it automobiles, aircraft, military equipment or computers—it always tries to negotiate "Canadian content" and other offsetting clauses. In fact, the Nixon administration often has the impression that Canada would prefer not to import anything from the United States, it was further said. (Canada's imports from America totaled $9.2 billion in 1970, more than the total for Japan and Britain combined.)

In recent years, Treasury officials allegedly went on, Canada's industrial development has become distinctively more interventionist and more aggressive. Rather than let market forces freely determine the location of manufacturing plants within North America, Ottawa attracts U.S. firms to Canada with a wide range of subsidies. Branch plants recently established by Control Data and IBM are obvious examples.

Thus, concluded the American spokesmen there are several aspects of Canadian economic policies that inevitably lead to dilemmas and contradictions with the United States. Many of Canada's secondary industries are inefficient and excessively dependent on the U.S. market, while their artificial expansion has put a ceiling on U.S. exports of manufactured goods to Canada. How, then, is the United States expected to get the foreign exchange it needs to buy Canadian raw materials? Canadians would clearly be better off if their secondary industries were based on the processing of natural resources. Continental economic integration could then proceed without conflicts of interest arising regularly between Canada and the United States.

Despite the near panic those blunt statements provoked within the Canadian government, politicians maintained a shocked silence in Ottawa for several weeks while officials probed further the Nixon administration's intentions toward the Canadian economy. When a second meeting in Washington between civil servants failed to dispel the ominous signs of a U.S. retreat into protectionism and economic nationalism, the Canadian cabinet feverishly began to draw up its contingency plans, both to counter the immediate threat of the U.S. import surcharge and to reassess Canada's long-term development strategy and trading pattern.

ACTIONS BY CANADA

On Sept. 7, Canada became the first country to take legislative action seeking to neutralize the impact of the import surcharge on its trade with the United States. For the remainder of the current fiscal year, which ends next March 31, $80 million has been allocated for so-called "employment maintenance grants"—a thinly disguised form of export subsidy that will enable firms exporting more than 20 percent of their output to America to maintain at least in part their competitive position in the U.S. market. If the surcharge outlasts the current fiscal year, a further $200 million is expected to be allocated to the employment maintenance program. Ottawa also announced special government purchases of food exports that have been hurt by the U.S. surcharge. The resulting stocks will be donated to the world food program.

Also following the Washington meeting, Trudeau announced the indefinite postponement of talks with the United States on joint development and exploitation of energy resources on a continental basis. The Nixon administration is eager to negotiate with Canada a North American free trade agreement for energy resources, so Trudeau's curt announcement, justified by lack of ministerial time, given Canada's urgent economic problems, could be interpreted as a subtle reprisal against Secretary Connally's poker tactics.

Opposition parties in the House of Commons have repeatedly called for the imposition of a surcharge on Canadian exports of natural resources. Business lobbies in Canada have begun to press more and more forcefully for the imposition of a retaliatory surcharge on imports of manufactured goods from the United States.

On Oct. 15, Canada again became the first of the United States' trading partners to make substantial budgetary adjustments to neutralize the impact on her economy of the Nixon program. The $1 billion supplementary budget tabled by Finance Minister Benson included a 7 percent cut in corporate income taxes, a 3 percent cut in personal income taxes and new spending programs designed to boost employment this winter.

Since the abortive visit to Ottawa of Secretary of Commerce Maurice Stans on the last weekend of September, there have been no official communications between Ottawa and Washington, short of normal diplomatic contacts. During the IMF meeting at the end of September, however, John Petty, assistant secretary of the Treasury for international affairs, convoked the Canadian press corps in Washington for an unusual on-the-record briefing.

Though Canadian correspondents generally interpreted this move as a thinly disguised attempt at U.S. arm-twisting, Petty actually tried to dispel the ominous impressions gathered by Canadian ministers and civil servants during their August meetings with U.S. Treasury officials. He categorically denied that it was the Nixon administration's policy to reduce Canada to the role of raw materials supplier for the United States; indeed, he expressed satisfaction at the recent expansion of Canadian output and exports of manufactured goods. To be sure, Petty reiterated Washington's criticism of several aspects of Canadian economic policies, but he emphasized that these disagreements could easily be resolved through bilateral negotiations.

UNOFFICIAL CHANNELS

Canadian officials were not displeased by Petty's somewhat irregular initiative, but wondered why the Nixon administration chose not to make its views known through official channels. Puzzlement verged on irritation when the Chicago Tribune, on Oct. 11, published an alleged Treasury document entitled "Grievances Against Canada." The document listed 17 U.S. demands (including unilateral tariff changes, amendments to Canada's tax reform, and revisions of her industrial development policies) as conditions for the exemption of Canadian goods from the import surcharge.

"We believe there is nothing wrong with communication (channels)," Prime Minister Trudeau told the House of Commons in answer to questions by opposition members. The problem, Trudeau said, is that "it is not American policy to put the proper stuff into the channels which would satisfy the Canadian people."

Ottawa's reaction to the Chicago Tribune article exemplifies the Trudeau government's tough, yet subdued stand toward what are literally considered in the country as "beggar-thy-neighbor" policies by the Nixon administration. Canadian officials first expressed skepticism about the authenticity of the document—at least on its status as a policy statement. The external affairs secretary, Mitchell Sharp, duly acknowledged a State Department denial that the list of grievances represented in any way official policy toward Canada. But at the same time, Sharp began to list Canada's own grievances against the United States, thereby implying that, in Ottawa's view, the Chicago Tribune leak had been deliberate and represented the U.S. Treasury's response to a tough speech in Toronto three days before by the national revenue minister, Herbert Grey.

Sharp mentioned the maintenance of the American Selling Price on chemicals, in violation of a commitment made during the Kennedy round of tariff cuts; the U.S. ban on the importing of uranium, of which Canada has the largest world reserves; the manufacturing clause in the U.S. copyright act, which prevents a Canadian author from selling in the United States more than 1,500 copies of a book published in Canada without forfeiting his copyrights; and restrictions on Canadian immigration into the United States. Why Canada should want to encourage the emigration of citizens is beyond comprehension, but no doubt the issue is a useful bargaining point since Canadian laws here are notably more liberal than America's and the country has recently received a substantial influx of U.S. immigrants—draft-dodgers, protesters against the Vietnam war, critics of the American way of life and what-not.

"We have a long list," Sharp added, tongue-in-cheek, "but I think that these are matters that ought to be negotiated between our

countries in the ordinary way and certainly ought not to be associated with the surcharge."

BARRAGE OF STATEMENTS

Quite obviously, then, the Trudeau government has been far from innocent of recourse to "unofficial" or "improper" channels. Indeed, Canadian ministers have mounted since mid-September a barrage of increasingly aggressive statements on the future of U.S.-Canada relations. Sharp fired the first shot in New York on Sept. 21; he was soon followed by Trudeau in Ottawa, Jean-Luc Pépin in Houston, Herbert Grey in Toronto and Edgar Benson all over the place.

"Suggestions from responsible authorities in the United States that Canada should reduce its secondary manufacturing industry and concentrate on the exploitation and processing of natural resources are as insensitive as they are misinformed," said Sharp. "We have the fastest-growing labor force in the world. Extractive and processing industries could not begin to absorb the labor force we have today, let alone provide the new jobs we need now and in the future.

"The enunciation of the Nixon Doctrine," continued the Canadian minister, "and more particularly the economic measures taken by the United States last month, has effectively, perhaps brutally, challenged some of our assumptions and led us to re-examine our position as an industrial and trading nation.

"Needless to say, we in Canada are asking some pretty fundamental questions about the future. We have proceeded in the postwar period on the assumption of freer trade and stable trading relationships between Canada and the United States, relationships which have been profitable to both countries. The announcement of Aug. 15 could not help but shake that assumption and, as a government responsible for the security and prosperity of more than 20 million Canadians, we have to look at the alternatives," Sharp said.

"A PROUD NATION"

Trudeau was even blunter on Sept. 23, during one of his infrequent television interviews. "When the Americans look at what they're doing, they say: 'Well, you know, we're doing this to the Japanese and we're doing this to the Europeans.' They don't seem to realize what they're doing to Canadians. If they do realize what they're doing and if it becomes apparent that they just want us to be sellers of natural resources to them and buyers of their manufactured products—all these 'ifs'—I repeat we will have to reassess fundamentally our relation with them, trading, political and otherwise.

"They will have to realize that Canadians are also a proud nation," the prime minister warned "and that if they are really trying to rearrange the North American continent so that we are just a supplier and that we won't be able to find jobs for our growing labor force and we won't be able to have an advanced technological society that we can manage ourselves, that is a very, very serious hypothesis. I don't think the Americans realize this or envisage it."

As part of Canada's reassessment of her economic relations with the United States, Sharp earlier this month submitted to the Canadian cabinet an External Affairs staff study outlining the various alternatives. None of the theoretical possibilities—which range from a trade war to a common market arrangement with the United States—has yet been excluded, Trudeau recently noted. But Sharp indicated earlier that, in practice, a common market arrangement was out of the question. This would provide not only for free trade between the two countries, but also for a common North American tariff against the rest of the world. It is felt in Ottawa that, given the relative size and political weight of the two economies, such an arrangement would virtually shift the responsibility for Canadian commercial and development policies from Ottawa to Washington, thereby drastically eroding Canada's sovereignty.

MIGRANT FARMWORKERS

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 15 minutes.

Mr. DAVIS of South Carolina. Mr. Speaker. I rise today dismayed, but even more, outraged at the high-handed conduct of one of the very agencies supported and protected by this Congress. I speak out with concern for the citizens of the country and the people of the First District of South Carolina. I express my amazed wonderment at how bureaucratic worms have managed to wiggle their way into the top echelon of this agency.

I have been systematically ignored, repeatedly refused, and totally denied any audience with these people who are alleged to be aiding the farmworkers of America. I am speaking of the Migrant Division of the OEO here in the Capitol itself.

I could more easily understand the lack of communication between my office and the Migrant Farm Workers Division if they were separated by miles. But, Mr. Speaker, to have that very agency right here in the Capitol, in the shadow of my office, and to still be able to obtain absolutely no satisfaction whatsoever—that is just incomprehensible. Mr. Speaker, let me give you some examples of how this agency has disregarded the pleas of the very people they are supposed to be aiding—the only purpose for which they were formed.

I have, on at least a dozen different occasions, made an attempt to get the people of the Migrant Farm Workers Division of the OEO to sit down and discuss several problems with me and my constituents. In the very beginning the agency—the Migrant Farm Workers Division of the OEO—had the courtesy to respond to my office. That was one time. Since that time I have had no further work, no correspondence, no dealings at all with anyone in that office. Quite frankly, Mr. Speaker, at the risk of seeming fallacious, I wonder if perhaps one of the construction crews may have mistakenly dug out that department and transported it off somewhere.

I have gone so far as to bring at my expense several people from the First District—people who are well versed to the problems of the district. We have attempted to meet with the representatives of the Migrant Workers Division of the OEO. Do you think they would honor us, come to my office, at my request? They did not. We were ignored—not put off—ignored! I made a personal request to Mr. Arnold Baker, one of the heads of that division. I even went as far as formally requesting through the congressional liaison of the OEO—Mr. Henry Max Maggenti—a meeting between my people and their department. We did not even get the time of day.

I heard about this flat refusal not from the Migrant Workers Division, but from one of the constituents of my district. Even worse, my constituent said someone in that department commented:

I'm sick and tired of the Congressman being involved in these problems.

Well, Mr. Speaker, not only am I involved in these problems, but, by the grace of God, I will die defending the people of the First Congressional District of South Carolina, and no two-bit, scatterbrained, flaming idiot bureaucrat is going to change that—no matter what he says or thinks. I feel it is about time we get rid of the Arnolds and the others of his type, the overstuffed shirts, those who disregard the very purpose for which they were appointed or hired. We should replace them with a lineup that can follow the game plan, or at least hear the signals being called. I say we cannot have any agency in this country which can shatter the good faith of the people they serve—and make no mistake about it, the faith of the people has been broken and callously tossed aside. I have brought complaint after complaint—I have made request after request all with the same results—a great big fat zero.

Well, Mr. Speaker, now I am finished making requests and now I am going to begin making demands. I am going to demand an accounting of this agency and the way it is being run—right now.

I am going to demand that Mr. Baker and associates realine their thinking to some more in line with the people for whom they work. I am going to demand that they either get on the stick or get out the door.

Today I am going to do my best to get some satisfaction. If it means tightening the purse strings, I shall turn into a scrooge. If it means persuading my colleagues in this body to reappraise their thinking about the Migrant Workers Division, I shall labor tirelessly in that cause. In short, I am going to do my best to see such inaction on the part of an agency designed to aid the people—will cease—at once. I call on the Members of this body to aid me in this fight.

U.S. CARIBBEAN POLICIES: EXCHANGE OF LETTERS WITH DEPARTMENT OF STATE

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, in an address to the House on September 9, 1971, entitled "Panama Canal Treaty Negotiations: Propaganda Campaign on Isthmus in High Gear, July 2–August 25, 1971," I quoted a digest of a newsstory in the Spanish language Isthmian newspaper El Panama America of July 23, 1971, attributing some startling statements concerning certain Latin American policies of the United States to Assistant Secretary of State for Inter-American Affairs, Charles A. Meyer. Because of their nature, instead of emphasizing that particular quotation in my introductory remarks, I wrote the Secretary of State asking whether Assistant Secretary Meyer was correctly quoted and

whether his alleged statements reflect the policy of the Department of State and the executive branch of our Government.

Assistant Secretary Meyer replied, denying the alleged statements but did not answer my second question. This led me to write him a second letter emphasizing the necessity for extreme care when speaking of Panama Canal policy matters.

As to the contentions of those in our Government and in Panama that continued U.S. sovereignty over the Canal Zone represents what is termed "colonialism," the fact is that surrender of such sovereignty to Panama would result in the creation of such status and render the efficient operation of the canal impossible.

Because the indicated exchange of letters should be interest to all Members of the Congress and others concerned with the conduct of U.S. policies in the Caribbean, I quote them as parts of my remarks:

SEPTEMBER 15, 1971.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C. 20520

DEAR MR. SECRETARY: The news section of *El Panama America* of July 23, 1971 (Morning Edition) attributes the following statement to Under Secretary of State Charles A. Meyer:

". . . the time of United States military intervention into other countries is past, even in the most serious circumstances. Not even (a) communist take over of a country would change the U.S. attitude . . . If the communists should cut off Venezuelan oil shipments, or if the Santo Domingo incidents should be repeated, or if communists took over Panama, the U.S. would not intervene. There will be no United States military intervention in Panama."

In view of the recent reorganization of the Panama Government to effect a leftist composition, the arrival on the Isthmus of Soviet experts, and the truculent press campaign against the United States now being waged in Panama, answers to the following questions are desired:

1. Are the above statements attributed to Under Secretary Meyer correctly quoted?

2. Do they reflect the policy of the Department of State and the Executive Branch of the U.S. Government in the premises?

A marked copy of my September 9 address is attached.

An early reply is requested.

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

DEPARTMENT OF STATE,
Washington, D.C., September 24, 1971.

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FLOOD: I have just returned to Washington to find your letter of September 15 addressed to Secretary Rogers which refers to a news article of a Panamanian newspaper dated July 23, 1971.

I can simply say that the editorial interpretation of the newspaper leaves me speechless at its inaccuracies. The only time that I have referred to United States intervention in my two and one-half years was in answer to specific questions as to whether the United States would intervene in Chile if Salvador Allende were elected, and that was in June of 1970. I have never been asked nor have I ever commented on Communism as a reason for intervention or non-intervention, on Venezuelan oil as a reason for intervention or non-intervention, on any aspect of Santo Domingo, and most specifically in no case have I referred to Panama or the Panama Canal.

With my best regards,

Sincerely,

CHARLES A. MEYER,
Assistant Secretary.

OCTOBER 5, 1971.

Hon. CHARLES A. MEYER,
Assistant Secretary of State for Inter-American Affairs, State Department, Washington, D.C.

DEAR MR. SECRETARY: I am glad that you were in a position to deny the statements attributed to you in the July 23, 1971, morning issue of *El Panama America:* You and the country at large are served by the denial.

In the introduction to my address in the *Congressional Record* of September 9 on "Panama Canal Treaty Negotiations in High Gear, July 2–August 25, 1971", I did not give the alleged statements any emphasis because it was difficult to believe that you could have been so reckless in dealing with the delicate situation at Panama. Instead, I wrote the Secretary of State and am glad that I did. At a convenient time, I may quote the resulting exchange of letters including your denial so that it may have wider dissemination.

In your important position you have to be very careful indeed when speaking of Panama Canal problems for they may involve not only the independence of Panama but also the security of the entire Western Hemisphere. Such questions cannot be settled by surrendering United States sovereignty over the Canal Zone for that would open the door for Soviet power to expedite its program of conquests in the Americas.

The U.S.S.R. is already dominant in Egypt and at the Suez Canal. Their policy since 1917 has been to wrest control of the Panama Canal from the United States, either by nationalization or internationalization. Surrender of our sovereignty over the U.S. owned Zone territory to Panama would deliver control and defense of the Canal to Panama and make any treaty arrangements subject to unilateral cancellation by Panama, which already has a pro Red government and has whipped its people into a frenzy of anti-United States hatred. Could there be any reason for the U.S.S.R. seeking the control of the Panama Canal except to undermine the capability of the United States to oppose the spread of communism? These are realistic questions that require evaluation as to the consequences.

It seems that as regards our Panama Canal policies the State Department has been playing Russian roulette, which can only end in self destruction. Panama is a very small and weak country utterly unable to protect itself, the Canal, or its necessary protective frame of the Canal Zone. The sovereignty question is not a one sided dispute between a great and powerful country and a little one but our own and Panama's protection and the security of the Free World. The question of sovereignty is not a mere emotional matter as some have asserted but a subject that involves the operation and defense of the Canal in all its stark realities.

The present crisis at Panama is not the first time that our government has been tested as regards our Panama Canal policies. In 1923 when Panama made formal demands for increased sovereignty over the Canal Zone, Secretary of State Charles Evans Hughes spoke with a refreshing degree of candor stating that the United States "could not, and would not, enter into any discussion affecting its full right to deal with the Canal Zone and to the entire exclusion of any sovereign rights or authority on the part of Panama" and that it was "an absolute futility for the Panamanian Government to expect any American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of these rights which the United States had acquired under the Treaty of 1903." (Foreign Relations, 1923, Vol. III, p. 684.)

On another occasion Secretary Hughes stated that it is "part of American policy not to yield to any foreign power the control of the Panama Canal, or the approaches to it, or the obtaining of any position which would interfere with the right of protection on the part of the United States or would menace the freedom of its communications." (*Encyclopaedia Britannica,* 1957, Vol. 15, p. 738.)

The above statements by Secretary Hughes were not made in the interest of oppression but were declarations of national policies commensurate with the heavy responsibilities assumed by the United States in perpetuity for the construction, maintenance, operation, sanitation and protection of the Panama Canal for which its protective frame of the Canal Zone is indispensable.

Finally, it is important to point out that it was a statement similar to the one attributed to you that is widely accepted as the prime cause of the Korean War in which there were a total of 157,530 American casualties.

Again thanking you for your statement of denial, I am

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

A NEW FOREIGN AID BILL

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Mrs. ABZUG) is recognized for 5 minutes.

Mrs. ABZUG. Mr. Speaker, I rise to call the attention of my colleagues to the fact that I am today introducing a bill to amend the Foreign Assistance Act.

The action of the Senate on Friday, October 29, in rejecting the Foreign Assistance Act has provided Congress with the opportunity to redesign U.S. programs of foreign assistance and help build a new era in world affairs. I for one welcome the chance. But we must act rapidly to restore the best and most urgent of these funds. So I introduce today the bill introduced in the Senate by the gentleman from South Dakota (Mr. MCGOVERN) and urge my colleagues' favorable and immediate consideration of it. It points toward a foreign policy for the 1970's.

By the admissions of both the House and Senate Foreign Relations Committees, this year's foreign assistance bill is a perpetuation of old concepts and outmoded policies. The time has come, as the era of the cold war draws to an end, to redefine our foreign policy objectives, to end our insistence on "the containment of communism" and the attendant predominance of military assistance in our foreign aid programs. The time has come to end our noblesse oblige attitude toward developing nations and the attendant bilateral approach we have incorporated into every aspect of our foreign assistance. The time is upon us here in the Congress, but we must move rapidly to assure that the urgent need of friends are not pushed aside while we undertake a necessary reexamination of our aid policy.

The event that has crystallized this crisis in foreign aid and polarized both our society at home and the world community is the American military involvement in Indochina. This bill insures an end to this awful war by providing a cut-

off of funds for U.S. military activities in Indochina 6 months after enactment, assuring at the same time the protection of our withdrawing forces and the release of all prisoners of war before withdrawal is completed.

The bill provides almost $400 million for Israel. Israel cannot wait on our deliberations. The common theme echoed throughout the turbulent Middle East is implacable hatred for Israel. Israel cannot lose ground. It is time now to provide Israel with the Phantoms she needs. This is, however, the only incorporation in this foreign assistance bill of military assistance funds—this $300 million in credit sales for Israel already authorized by both Foreign Relations Committees—that I consider emergency enough to warrant inclusion into this proposed legislation. The bill also provides $85 million in security supporting assistance for Israel, also endorsed by the committees. Both are essential.

The Pakistani refugees too cannot wait. Their daily plight is too immediate to hang on the deliberations of the U.S. Congress. Therefore this bill authorizes the full $250 million sought for their assistance.

There are other provisions I wish to call to your attention: an absolute cutoff of aid to the repressive regimes in Pakistan and Greece, full funding for the multilateral agencies including the United Nations, accelerating the end of the bilateral aid program to June of 1973, and with the sole exception of the credit sales to Israel, separating out all military assistance from this foreign assistance bill.

I urge your favorable consideration.

A copy of the bill follows:

S. 2796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1971".

PART I—ECONOMIC ASSISTANCE

DEVELOPMENT LOAN FUND

SEC. 101. Title I of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Development Loan Fund, is amended as follows:

(1) In section 202(a), relating to authorization—

(A) strike out "$685,000,000 for the fiscal year 1967, $450,000,000 for the fiscal year 1968, $350,000,000 for the fiscal year 1969, $350,000,000 for the fiscal year 1971" and insert in lieu thereof "$400,000,000 for each of the fiscal years 1972 and 1973";

(B) beginning with the word "That", immediately after *"Provided,"*, strike out through *"Provided further,"*.

(2) In section 203, relating to fiscal provisions, strike out "1970 and or the fiscal year 1971" and insert in lieu thereof "1972 and or the fiscal year 1973".

(3)(A) Section 209, relating to multilateral and regional programs, is amended—

(i) by striking out subsection (a) and inserting in lieu thereof the following: "(a) The Congress recognizes that the planning and administration of development assistance by, or under the sponsorship of the United Nations, multilateral lending institutions, and other multilateral organizations contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance. It is the sense of Congress that an increasing proportion of United States assistance to the developing countries should be channeled through multilateral organizations and that the United States Government should undertake such measures as may be necessary to help increase the competency and capacity of such organizations."; and

(ii) by inserting at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of law, the President shall reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of phasing out the bilateral loan program by not later than June 30, 1973.

"(d) In furtherance of the provisions of subsection (a) of this section, any funds appropriated under this part I may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries. Any such transfer shall be made—

(1) only if the institution or organization agrees that, in making loans out of funds so transferred, it will emphasize and take into account those matters emphasized and taken into account by the President under sections 201(b) and (f), 207, and 208 of this Act;

"(2) without regard to any other provision of this title; and

"(3) upon such other terms and conditions as the President may determine."

(B) Subsection (b) of such section 209 is amended by striking out "REGIONAL PROGRAMS.—".

(C) Section 205 of such Act is repealed.

(D) Effective July 1, 1975, section 619 of such Act is amended by inserting after "this Act" the following "(other than title I of chapter 2 of such part)".

Technical cooperation and development grants

SEC. 102. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to technical cooperation and development grants, is amended as follows:

(1) In section 212, relating to authorization, strike out "$183,500,000 for the fiscal year 1970, and $183,500,000 for the fiscal year 1971" and insert in lieu thereof $231,300,000 for each of the fiscal years 1972 and 1973".

(2) Section 214, relating to authorization for American schools and hospitals abroad, is amended as follows:

(A) by inserting in subsection (a), after "United States citizens", a comma and the following: "or administered by United States citizens who assure the President that they will have responsibility for administering the funds made available under this section,";

(B) by inserting before the period at the end of subsection (b) a comma and the following: "or administered by United States citizens who assure the President that they will have responsibility for administering the funds made available under this section"; and

(C) by striking out in subsection (c) "for the fiscal year 1970, $25,900,000, and for the fiscal year 1971, $12,900,000", and by inserting in lieu thereof "for each of the fiscal years 1972 and 1973, $30,000,000".

(3) At the end of such title II, add the following new section:

"SEC. 220A. SUEZ CANAL.—The President is authorized to furnish financial assistance, on such terms and conditions as he may determine, for assisting in the reopening of the Suez Canal after agreement has been reached by the parties involved, which agreement provides for the use of the canal by the ships of all nations, including Israel, on a nondiscriminatory basis. For the purpose of carrying out this section, there are authorized to be appropriated not to exceed $10,000,000 in Egyptian pounds now owned by the United States and determined by the President to be in excess to the normal requirements of departments and agencies of the United States. Amounts appropriated under this section are authorized to remain available until expended."

HOUSING GUARANTIES

SEC. 103. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to housing guaranties, is amended as follows:

(1) In section 221, relating to worldwide housing guaranties, strike out "$130,000,000" and insert in lieu thereof "$180,000,000".

(2) In section 223(1), relating to general provisions, strike out "June 30, 1972" and insert in lieu thereof "June 30, 1974".

INTERNATIONAL DRUG CONTROL ASSISTANCE

SEC. 104. (a) Chapter 2 of the Foreign Assistance Act of 1961, relating to development assistance, is amended by inserting after title III the following new title:

"TITLE IIIA—INTERNATIONAL DRUG CONTROL ASSISTANCE

"SEC. 225. AUTHORITY.—(a) The President is authorized to furnish assistance to any foreign country, on such terms and conditions he determines necessary, in order to encourage and enable that country to control or eliminate the production, processing, or distribution of drugs within or across its boundaries.

"(b) The President is authorized to furnish assistance to any international organization, such as the United Nations Special Fund for Drug Abuse Control, involved in efforts to control or eliminate the production, processing, or distribution of drugs.

"(c) Of the funds provided to carry out the provisions of this Act, not less than $25,000,000 shall be available each fiscal year only to carry out the provisions of this title.

"(d) For purposes of this section, 'drug' means any matter which is included within the definition of controlled substance under title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970."

(b) Section 620 of such Act, relating to prohibitions against furnishing assistance, is amended by adding at the end thereof the following new subsection:

"(v)(1) The President shall determine annually, before furnishing any military, economic, and other assistance to a foreign country under this or any other law, whether such country has undertaken appropriate measures to prevent drugs, partially or completely processed or produced in or transported through such country, from unlawfully entering the United States or from being unlawfully supplied to citizens of the United States.

"(2) Except as otherwise provided under paragraph (3) of this subsection, if the President determines that a foreign country has not undertaken appropriate measures to prevent any such drugs from unlawfully entering the United States or being unlawfully supplied to United States citizens, he shall immediately cease to furnish all military, economic, and other assistance to such country authorized under this or any other law. The President is urged also to seek, through the United Nations or any other international organization, the imposition of international economic sanctions against such country.

"(3) If the President finds that a foreign country referred to under paragraph (2) of this subsection has undertaken, after his determination, appropriate measures to prevent such drugs from unlawfully entering the United States or being unlawfully supplied to United States citizens or finds that the overriding national interest requires that military, economic, or other assistance be furnished to such country, the provisions of such paragraph shall not apply to that coun-

try unless the provisions of such paragraph would apply further to that country as a result of a further determination.

"(4) The President shall utilize such agencies and facilities of the United States Government as he may deem appropriate to assist foreign countries in their efforts to prevent the unlawful entry of drugs into the United States or from being unlawfully supplied to United States citizens.

"(5) No provisions of this or any other law shall be construed to authorize the President to waive the provisions of this subsection.

"(6) For purposes of this subsection—

"(A) 'drug' means any matter which is included within the definition of controlled substance under title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970; and

"(B) 'foreign assistance' means any tangible or intangible item provided by the United States Government (by means of gift, loan, sale, credit sale, guaranty, or any other means) under this or any other law to a foreign country, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country."

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 105. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Ovearseas Private Investment Corporation, is amended as follows:

(1) In the first provisio of section 238(c), relating to definitions, strike out "required by law to be".

(2) At the end of section 239, relating to general provisions and powers, add the following new subsection:

"(g) Except for the provisions of this title, no other provision of this or any other Act shall be construed to prohibit the operation in a particular country of the programs authorized by this title, if the President determines that the operation of such program in a particular country is important to the national interest."

(3) Section 240(h), relating to agricultural credit and self-help community development projects, is amended by striking out "June 30, 1972" and inserting in lieu thereof "June 30, 1973".

ALLIANCE FOR PROGRESS

SEC. 106. Section 252(a) of the Foreign Assistance Act of 1961, relating to authorization for the Alliance for Progress, is amended—

(1) by striking out "for the fiscal year 1970, $482,250,000, and for the fiscal year 1971, $428,250,000" and inserting in lieu thereof "for each of the fiscal years 1972 and 1973, $364,000,000"; and

(2) by striking out "$90,750,000" and inserting in lieu thereof "$129,000,000".

Programs relating to population growth

SEC. 107. Section 292 of the Foreign Assistance Act of 1961, relating to authorization, is amended to read as follows:

"SEC. 292. AUTHORIZATION.—To carry out the purposes of this title, there is authorized to be appropriated to the President $125,000,000 for each of the fiscal years 1972 and 1973, which amounts are authorized to remain available until expended. Other funds provided to carry out the provisions of this part I shall also be available to carry out the purposes of this title and, notwithstanding any other provision of this Act, funds used for such purposes may be used on a loan or grant basis. The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of this Act."

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 108. Section 302 of the Foreign Assistance Act of 1961, relating to authorization, is amended as follows:

(1) In subsection (a), strike out "for the fiscal year 1970, $122,620,000, and for the fiscal year 1971, $122,620,000" and insert in lieu thereof "for each of the fiscal years 1972 and 1973, $143,000,000."

(2) Subsection (b)(2) is amended—

(A) by striking out "for use in the fiscal year 1970, $7,530,000, and for use in the fiscal year 1971, $7,530,000" and inserting in lieu thereof "for use in each of the fiscal years 1972 and 1973, $15,000,000"; and

(B) by adding at the end thereof the following new sentence: "The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of this Act."

(3) In subsection (e), strike out "$1,000,000 for the fiscal year 1970 and $1,000,000 for the fiscal year 1971" and insert in lieu thereof "$1,000,000 for each of the fiscal years 1972 and 1973".

(4) At the end of such section 302, add the following new subsection:

"(f) There are authorized to be appropriated to the President for each of the fiscal years 1972 and 1793, in addition to other amounts available for such purposes, $1,000,000 in Egyptian pounds owned by the United States and determined by the President to be excess to the requirements of departments and agencies of the United States, for the purpose of providing technical and vocational training and other assistance to Arab refugees. Amounts appropriated under this subsection are authorized to remain available until expended."

CONTINGENCY FUND

SEC. 109. Section 451(a) of the Foreign Assistance Act of 1961, relating to the contingency fund, is amended by striking out "for the fiscal year 1970 not to exceed $15,000,000, and for the fiscal year 1971 not to exceed $30,000,000" and inserting in lieu thereof "for each of the fiscal years 1972 and 1973 not to exceed $30,000,000".

REFUGEE RELIEF ASSISTANCE

SEC. 110. Part I of the Foreign Assistance Act of 1961, relating to economic assistance, is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—REFUGEE RELIEF ASSISTANCE

"SEC. 481. REFUGEE RELIEF ASSISTANCE.—There is authorized to be appropriated to the President for the fiscal year 1972, in addition to funds otherwise available for such purpose, not to exceed $250,000,000 to remain available until expended, for use by the President in providing assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan. Such assistance shall be distributed, to the maximum extent practicable, under the auspices of and by international institutions and relief agencies or United States voluntary agencies."

PART II—MILITARY ASSISTANCE

GENERAL MILITARY ASSISTANCE

SEC. 201. Part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended as follows:

(1) Section 505, relating to conditions of eligibility, is amended by striking out subsection (e).

(2) Section 507(a), relating to restrictions on military aid to Latin America, is amended to read as follows: "(a) Except as otherwise provided in this section, the value of defense articles furnished by the United States Government under this Act to Latin American countries shall not exceed $10,000,000. Not to exceed $25,000,000 in value of defense articles may be furnished under this part on a cost-sharing basis to an inter-American military force under the control of the Organization of American States."

(3) At the end of chapter 2 of such part II, add the following new sections:

"SEC. 511. MILITARY ASSISTANCE ADVISORY GROUPS AND MISSIONS.—(a) It is the sense of Congress that the need for large United States military assistance advisory groups and military aid missions in foreign countries has diminished substantially during the last few years. In the words of the Peterson Task Force Report on International Development, 'The United States now can reduce its supervision and advice to a minimum, thus encouraging progress toward self-reliance. United States military missions and advisory groups should be consolidated with other elements in our overseas missions as soon as possible.'

"(b) In accordance with the provisions of subsection (a) of this section, the total number of United States military personnel assigned and detailed, as of September 30, 1971, to United States military assistance advisory groups, military missions, and other organizations of the United States performing activities similar to such groups and missions, shall be reduced by at least 25 per centum by September 30, 1972.

"SEC. 512. MILITARY ASSISTANCE AUTHORIZATIONS FOR THAILAND, LAOS, AND SOUTH VIETNAM.—After June 30, 1972, no military assistance shall be furnished by the United States to Thailand, Laos, or South Vietnam directly or through any other foreign country unless that assistance is authorized under this Act or the Foreign Military Sales Act.

"SEC. 513. LIMITATIONS ON AVAILABILITY OF FUNDS FOR MILITARY OPERATIONS.—(a) No funds authorized or appropriated under any provision of law shall be made available by any means by any officer, employee, or agency of the United States Government for the purpose of financing any military operations by foreign forces in Laos, South Vietnam, North Vietnam, Thailand, Cambodia, or Burma outside the borders of the country of the government or person receiving such funds unless Congress has specifically authorized or specifically authorizes the making of funds available for such purpose and designates the area where military operations financed by such funds may be undertaken outside such borders.

"(b) Upon requesting Congress to make any such authorization, the President shall provide to Congress a copy of any agreement proposed to be entered into with any such government or person and the complete details of the proposed military operation. Upon such authorization by Congress, the President shall provide a copy of any such agreement and thereafter of all plans and details of such operation.

"SEC. 514. SPECIAL FOREIGN COUNTRY ACCOUNTS.—(a) Except as otherwise provided by subsection (b) or (c) of this section, no defense article may be given, and no grant of military assistance may be made, under this or any other law to a foreign country unless the country agrees—

"(1) to deposit in a special account established by the United States Government the following amounts of currency of that country:

"(A) in the case of any excess defense article to be given to that country, an amount equal to 25 per centum of the fair value of the article, as determined by the Secretary of State, at the time the agreement to give the article to the country is made; and

"(B) in the case of a grant of military assistance to be made to that country, an amount equal to 25 per centum of each such grant; and

"(2) to allow the United States Government to use such amounts from that special account as may be determined, from time to time, by the President to be necessary to pay all official costs of the United States Government payable in the currency of that coun-

try, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

"(b) The President may waive any amount of currency of a foreign country required to be deposited under subsection (a)(1) of this section if he determines that the United States Government will be able to pay all of its official costs payable in the currency of that country enumerated under subsection (a)(2) of this section without the deposit of such amount and without having to expend United States dollars to purchase currency of that country to pay such costs.

"(c) The provisions of this section shall not apply in any case in which an excess defense article is given, or a grant of military assistance is made, to a foreign country under an agreement with that country which allows the United States Government to operate a military or other similar base in that country in exchange for that article or grant.

"(d) Section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), shall not be applicable to the provisions of this section."

Security supporting assistance

SEC. 202. (a) At the end of such part II, add the following new chapter:

"Chapter 4—Security Supporting Assistance

SEC. 531. GENERAL AUTHORITY.—The President is authorized to furnish assistance to friendly countries, organizations, and bodies eligible to receive assistance under this Act on such terms and conditions as he may determine, in order to support or promote economic or political stability. The authority of this chapter shall not be used to furnish assistance to more than twelve countries in any fiscal year.

"SEC. 532. AUTHORIZATION.—There are authorized to be appropriated to the President not to exceed $614,400,000 to carry out the purposes of this chapter for the fiscal year 1972 and not to exceed $85,000,000 for such purposes for that fiscal year for Israel only. Where commodities are furnished on a grant basis under this chapter under arrangements which will result in the accrual of proceeds to the Government of Vietnam from the sale thereof, arrangements should be made to assure that such proceeds will not be budgeted by the Government of Vietnam for economic assistance projects or programs unless the President or his representative has given prior written approval. Amounts appropriated under this section are authorized to remain available until expended. None of the funds authorized by this section shall be made available to the Government of Vietnam unless, beginning in January 1971, and quarterly thereafter, the President of the United States shall determine that the accommodation rate of exchange, and the rate of exchange for United States Government purchases of piasters for goods and services, between said Government and the United States is fair to both countries.

"SEC. 533. UNITED STATES REFUND CLAIMS.—It is the sense of the Congress that the President should seek the agreement of the Government of Vietnam to the establishment and maintenance of a separate special account of United States dollars, which account shall be available solely for withdrawals by the United States, at such times and in such amounts as the President may determine, in satisfaction of United States dollar refund claims against the Government of Vietnam arising out of operations conducted under this Act. Such account should be established in an amount not less than $10,000,000 and maintained thereafter at a level sufficient to cover United States refund claims as they arise."

(b) Chapter 4 of part I of the Foreign Assistance Act of 1961 is hereby repealed. All references to such chapter or any sections thereof made prior to the date of the enactment of this Act shall hereafter be deemed to be references to chapter 4 of part II of the Foreign Assistance Act of 1961, as added by subsection (a) of this section, or to appropriate sections thereof. All references to part I of the Foreign Assistance Act of 1961 made prior to the date of enactment of this Act shall hereafter be deemed to be references also to chapter 4 of part II, and all references to part II of such Act shall be deemed not to include chapter 4 of such part II

PART III—GENERAL AND ADMINISTRATIVE PROVISIONS

Prohibitions Against Furnishing Assistance

SEC. 301. Section 620 of the Foreign Assistance Act of 1961, relating to prohibitions against furnishing assistance, is further amended by adding after subsection (v), as added by section 104(b) of this Act, the following new subsections:

"(w) No assistance shall be furnished to Greece under this or any other Act, and no sale or credit shall be made to, and no guaranty shall be made on behalf of, Greece under the Foreign Military Sales Act."

"(x)(1) All military, economic, or other assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), all sales of agricultural commodities (whether for cash, credit, or by other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Pakistan under this or any other law shall be suspended on the date of enactment of this subsection.

"(2) The provisions of this subsection shall cease to apply when the President reports to the Congress that the Government of Pakistan is cooperating fully in allowing the situation in East Pakistan to return to reasonable stability and that refugees from East Pakistan in India have been allowed, to the extent feasible, to return to their homes and to reclaim their lands and properties.

"(3) Nothing in this subsection shall apply to the provision of food and other humanitarian assistance which is coordinated, distributed, or monitored under international auspices."

Authorization of Administrative Expenses

SEC. 302. Section 637(a) of the Foreign Assistance Act of 1961, relating to authorization of administrative expenses of the agency administering part I, is amended by striking out "for the fiscal year 1970, $51,125,000, and for the fiscal year 1971, $51,125,000" and inserting in lieu thereof "for each of the fiscal years 1972 and 1973, $51,800,000".

Miscellaneous Provisions

SEC. 303. (a) (1) Section 652 of chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is amended to read as follows:

"SEC. 652. LIMITATION UPON EXERCISE OF SPECIAL AUTHORITIES.—The President shall not exercise any special authority granted to him under section 506(a), 610(a), or 614(a) of this Act unless the President, at least ten days prior to the date he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority."

(2) The last sentence of section 506(a) of such Act, relating to special authority, is repealed.

(3) The last sentence of section 634(d) of such Act, relating to reports and information, is amended by striking out "614(a),".

(b) Such chapter 3 is amended by adding at the end thereof the following new sections:

"SEC. 653. CHANGES IN ALLOCATION OF FOREIGN ASSISTANCE.—(a) Not later than thirty days after the enactment of any law appropriating funds to carry out any provision of this Act (other than section 451 or 637), the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each. Notwithstanding any other provision of law, the United States Government shall not provide to any foreign country or international organization any funds under that law which are in excess of 10 per centum of the amount of each category of assistance which the President notified the Congress that the United States Government intended to provide that country or organization under that law, unless the President (1) determines that it is vital to the security of the United States that such country or organization receive funds in excess of the amount included in such notification for that country or organization, and (2) reports to Congress, at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of that per centum which are to be provided, and the justification for providing the additional assistance.

"(b) The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

"SEC. 654. PRESIDENTIAL FINDINGS AND DETERMINATIONS.—(a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

"(b) No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

"(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

"(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

"SEC. 655. LIMITATIONS UPON ASSISTANCE TO OR FOR CAMBODIA.—(a) Notwithstanding any other provision of law, no funds authorized to be appropriated by this or any other Act may be obligated or expended in any amount in excess of $250,000,000 for

the purpose of carrying out directly or indirectly any economic or military assistance, or any operation, project, or program of any kind, or for providing any goods, supplies, materials, equipment, services, personnel, or advisers in, to, for, or on behalf of Cambodia during the fiscal year ending June 30, 1972.

"(b) In computing the $250,000,000 limitation on obligation and expenditure authority under subsection (a) of this section in fiscal year 1972, there shall be included in the computation the value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia in such fiscal year by gift, donation, loan, lease, or otherwise. For the purpose of this subsection, 'value' means the fair market value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia but in no case less than 33⅓ per centum of the amount the United States paid at the time such goods, supplies, materials, or equipment were acquired by the United States.

"(c) No funds may be obligated or expended for any of the purposes described in subsection (a) of this section in, to, for, or on behalf of Cambodia in any fiscal year beginning after June 30, 1972, unless such funds have been specifically authorized by law enacted after the date of enactment of this Act. In no case shall funds in any amount in excess of the amount specifically authorized by law for any fiscal year be obligated or expended for any such purpose during such fiscal year.

"(d) The provision of subsections (a) and (c) of this section shall not apply with respect to the obligation or expenditure of funds to carry out combat air operations over Cambodia.

"(e) After the date of enactment of this Act, whenever any request is made to the Congress for the appropriation of funds for use in, for, or on behalf of Cambodia for any fiscal year, the President shall furnish a written report to the Congress explaining the purpose for which such funds are to be used in such fiscal year.

"(f) The President shall submit to the Congress within thirty days after the end of each quarter of each fiscal year, beginning with the fiscal year which begins July 1, 1971, a written report showing the total amount of funds expended in, for, or on behalf of Cambodia during the preceding quarter by the United States Government, and shall include in such report a general breakdown of the total amount expended, describing the different purposes for which such funds were expended and the total amount expended for such purpose, except that in the case of the first two quarters of the fiscal year beginning July 1, 1971, a single report may be submitted for both such quarters and such report may be computed on the basis of the most accurate estimates the President is able to make, taking into consideration all information available to him.

"(g) Enactment of this section shall not be construed as a commitment by the United States to Cambodia for its defense."

LIMITATION ON UNITED STATES PERSONNEL AND PERSONNEL ASSISTED BY UNITED STATES IN CAMBODIA

SEC. 304. Chapter 3 of part III of the Foreign Assistance Act of 1961 relating to miscellaneous provisions, is further amended by adding after section 655, as added by section 303(b) of this Act, the following new section:

"SEC. 656. LIMITATIONS ON UNITED STATES PERSONNEL AND PERSONNEL ASSISTED BY UNITED STATES IN CAMBODIA.—The total number of civilian officers and employees of executive agencies of the United States Government who are citizens of the United States and of members of the Armed Forces of the United States (excluding such members while actually engaged in air operations in or over Cambodia which originate outside Cambodia) present in Cambodia at any one time shall not exceed two hundred. The United States shall not, at any time, pay in whole or in part, directly or indirectly, the compensation or allowances of more than fifty individuals in Cambodia who are citizens of countries other than Cambodia or the United States. For purposes of this section, 'executive agency of the United States Government' means any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment within the executive branch of the United States Government."

ANNUAL FOREIGN ASSISTANCE REPORT

SEC. 305. (a) Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is further amended by adding after section 656, as added by section 304 of this Act, the following new section:

"SEC. 657. ANNUAL FOREIGN ASSISTANCE REPORT.—(a) In order that the Congress and the American people may be better and more currently informed regarding the volume and cost of assistance extended by the United States Government to foreign countries and international organizations, and in order that the Congress and the American people may be better informed regarding the sale of arms to foreign countries and international organizations by private industry of the United States, not later than December 31 of each year the President shall transmit to the Congress an annual report, for the fiscal year ending prior to the fiscal year in which the report is transmitted, showing—

"(1) the aggregate dollar value of all foreign assistance provided by the United States Government by any means to all foreign countries and international organizations, and the aggregate dollar value of such assistance by category provided by the United States Government to each such country and organization, during that fiscal year;

"(2) the total amounts of foreign currency paid by each foreign country or international organization to the United States Government in such fiscal year, what each payment was made for, whether any portion of such payment was returned by the United States Government to the country or organization from which the payment was obtained or whether any such portion was transferred by the United States Government to another foreign country or international organization, and, if so returned or transferred, the kind of assistance obtained by that country or organization with those foreign currencies and the dollar value of such kind of assistance;

"(3) the aggregate dollar value of all arms, ammunitions, and other implements of war, and the aggregate dollar value of each category of such arms, ammunitions, and implements of war, exported under any export license, to all foreign countries and international organizations, and to each such country and organization, during that fiscal year; and

"(4) such other matters relating to foreign assistance provided by the United States Government as the President considers appropriate, including explanations of the information required under clauses (1)–(3) of this subsection.

"(b) All information contained in any report transmitted under this section shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplement to any report shall be transmitted to the Congress at the same time that the report is transmitted.

"(c) If the Congress is not in session at the time a report or supplement is transmitted to the Congress, the Secretary of the Senate and the Clerk of the House of Representatives shall accept the report or supplement on behalf of their respective Houses of Congress and present the report or supplement to the two Houses immediately upon their convening.

"(d) For purposes of this section—

"(1) 'foreign assistance' means any tangible or intangible item provided by the United States Government under this or any other law to a foreign country or international organization, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country;

"(2) 'provided by the United States Government' include, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit sale, or guaranty; and

"(3) 'value' means value at the time of transfer except that in no case shall any commodity or article of equipment or material be considered to have a value less than one-third of the amount the United States Government paid at the time the commodity or article was acquired by the United States Government."

(b) Section 644(m) of such Act is amended by striking out—

"(m) 'Value' means—" and inserting in lieu thereof—

"(m) 'Value' means, than in section 657 of this Act—".

(c) Subsection (a) of section 634 of such Act is repealed.

(d) The provisions of this section shall apply with respect to any fiscal year commencing on or after July 1, 1971.

PART IV—MISCELLANEOUS PROVISIONS

FOREIGN MILITARY SALES

Sec. 401. The Foreign Military Sales Act is amended as follows:

(1) In section 31(a), relating to authorization, strike out "$250,000,000 for each of the fiscal years 1970 and 1971" and insert in lieu thereof "$300,000,000 for the fiscal year 1972 for Israel only".

(2) In section 31(b), relating to aggregate ceiling on foreign military sales credits, strike out "$340,000,000 for each of the fiscal years 1970 and 1971" and insert in lieu thereof "$523,800,000 for the fiscal year 1972".

(3) In section 33(a), relating to regional ceilings on foreign military sales, strike out "$75,000,000" and insert in lieu thereof "$100,000,000".

(4) Section 33(c), relating to regional ceilings on foreign military sales, is repealed.

EXCESS DEFENSE ARTICLES

Sec. 402. Section 8 of the Act of January 12, 1971, entitled "An Act to amend the Foreign Military Sales Act, and for other purposes" (84 Stat. 2053), is amended—

(1) by striking out the first and second sentences of subsection (a) and inserting in lieu thereof the following: "Subject to the provisions of subsection (b), the value of any excess defense article granted to a foreign country or international organization by any department, agency, or independent establishment of the United States Government (other than the Agency for International Development) shall be considered to be an expenditure made from funds appropriated under the Foreign Assistance Act of 1961 for military assistance. Unless such department, agency, or establishment certifies to the Comptroller General of the United States that the excess defense article it is ordering is not to be transferred by any means to a foreign country or international organization, when an order is placed for a defense article whose stock status is excess at the time ordered, a sum equal to the value thereof shall (1) be reserved and transferred to a suspense account, (2) remain in the suspense account until the excess defense article is either delivered to a foreign country or international organization or the order therefor is cancelled, and (3) be transferred

from the suspense account to (A) the general fund of the Treasury upon delivery of such article, or (B) to the military assistance appropriation for the current fiscal year upon cancellation of the order.";

(2) by striking out, in subsection (b), "$100,000,000" and inserting in lieu thereof "$150,000,000"; and

(3) by adding at the end thereof the following new subsection:

"(e) Except for excess defense articles granted under part II of the Foreign Assistance Act of 1961, the provisions of this section shall not apply to any excess defense article granted to South Vietnam prior to July 1, 1972."

INTERPARLIAMENTARY UNION

SEC. 403. The first section of the Act of June 28, 1935, entitled "An Act to authorize participation by the United States in the Interparliamentary Union" (22 U.S.C. 276), is amended as follows:

(1) Strike out "$53,550" and insert in lieu thereof "$102,000".

(2) Strike out "$26,650" and insert in lieu thereof "$57,000".

(3) Strike out "$26,900" an insert in lieu thereof "$45,000".

INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

SEC. 404. Part IV of the Foreign Assistance Act of 1969 is amended as follows:

(1) Strike out the title of such part and insert in lieu thereof the following:

"PART IV—THE INTER-AMERICAN FOUNDATION ACT."

(2) The caption of section 401 and subsection (a) of such section of that part are amended to read as follows: "INTER-AMERICAN FOUNDATION.—(a) There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation (hereinafter in this section referred to as the 'Foundation')."

(3) Section 401 of such part is amended by striking out "Institute" wherever it appears and inserting in lieu thereof "Foundation".

(4) Section 401(e)(4) of such part is amended to read as follows:

"(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;".

(5) Section 401(1) is amended to read as follows:

"(1)(1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(2) Experts and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5, United States Code."

ANNUAL AUTHORIZATION FOR STATE DEPARTMENT AND USIA

SEC. 405. (a) It is the purpose of this section to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in particular, to carry out the purposes and intent of the Legislative Reorganization Acts of 1946 and 1970, with respect to—

(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

(2) providing annual authorizations of appropriations for that Department and Agency.

(b) Section 15 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2680), is amended to read as follows:

"SEC. 15. (a) Notwithstanding any other provision of law, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress.

"(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities of all departments, agencies, and independent establishments of the United States Government conducted outside the United States or its territories or possessions. Any such department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility."

(c) The last sentence of section 13 of such Act (22 U.S.C. 2684) is repealed.

(d) Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended to read as follows:

"PRIOR AUTHORIZATIONS BY CONGRESS

"SEC. 701. Notwithstanding any other provision of law, no appropriation shall be made to the Secretary of State, or to any Government agency authorized to administer the provisions of this Act, under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress."

WITHDRAWAL OF UNITED STATES FORCES FROM INDOCHINA

SEC. 406. (a) Subject to the provisions of subsection (c) of this section, no funds authorized or appropriated under this or any other law may be expended six months after the date of enactment of this Act, to deploy or maintain United States Armed Forces in or the conduct of United States military operations in or over Indochina.

(b) Nothing in this section shall be construed to affect the authority of the President to—

(1) provide for the safety of American Armed Forces during their withdrawal from Indochina,

(2) arrange for asylum or other means of protection for South Vietnamese, Cambodians, and Laotians who might be physically endangered by the withdrawal of American Armed Forces, or

(3) to provide assistance to the nations of Indochina, in amounts approved by the Congress, consistent with the objectives of this section.

(c) This section shall have no force or effect if North Vietnam and other adversary forces in Indochina holding American prisoners of war or Americans designated as missing in action but held as prisoners of war have not completed the release and repatriation of all such prisoners and missing in action by a date five months after the date of enactment of this Act.

LIMITATION ON UNITED STATES ACTIVITIES IN CAMBODIA

SEC. 407. Section 7(a) of the Special Foreign Assistance Act of 1971 (84 Stat. 1943) is amended by striking out "Cambodian military forces" and inserting in lieu thereof "military, paramilitary, police, or other security or intelligence forces".

RESTRICTIONS RELATING TO FOREIGN TROOPS

SEC. 408. Section 401(a) of Public Law 89-367, approved March 15, 1966 (80 Stat. 37), as amended, is amended—

(1) by inserting in the second sentence of paragraph (1), after "to or for the use of the Armed Forces of the United States", the following: "or of any department, agency, or independent establishment of the United States"; and

(2) by inserting in the introductory matter preceding clause (A) of paragraph (2) of such section, after "Armed Forces of the United States", the following: "or of any department, agency, or independent establishment of the United States".

REPEAL OF FORMOSA RESOLUTION

SEC. 409. The joint resolution entitled "Joint Resolution authorizing the President to employ the Armed Forces of the United States for protecting the security of Formosa, the Pescadores, and related positions and territories of that area", approved January 29, 1955 (69 Stat. 7; Public Law 84-4), is repealed effective upon the date of adjournment sine die of the first session of the Ninety-second Congress.

USE OF FOREIGN CURRENCIES

SEC. 410. (a) Section 502(b) of the Mutual Security Act of 1954 is amended to read as follows:

"(b) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, local currencies owned by the United States, which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961, and which are determined by the Secretary of the Treasury to be excess to the normal requirements of the United States, shall be made available to appropriate committees of the Congress engaged in carrying out their duties under section 136 of the Legislative Reorganization Act of 1946, and to the Joint Committee on Atomic Energy and the Joint Economic Committee and the Select Committees on Small Business of the Senate and House of Representatives for their local currency expenses. Any such excess local currencies shall not be made available (1) to defray subsistence expenses or fees of witnesses appearing before any such committee in the United States, or (2) in amounts greater than the equivalent of $100 a day for each person, exclusive of the actual cost of transportation."

(b) The amendment made by this section is effective March 1, 1972.

STRICT LABEL LAW NEEDED TO END HEALTH DANGER TO CONSUMERS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am introducing a bill today with the bipartisan support of 28 Members of the House, to require the name and address of processed food manufacturers to appear on all food labels.

Food manufacturers and distributors are putting consumers at a dangerous disadvantage by refusing to list the name and address of the manufacturer on processed food labels. Without this information, consumers are at a loss to identify and avoid foods found or thought to have been contaminated in the manufacturing process.

Three times in the last 4 months, the Food and Drug Administration alerted the public to the fact that canned foods of a manufacturer were suspected of containing a poisonous botulism infection. In one of the most publicized efforts, the public received urgent warnings against eating the foods prepared by Bon Vivant. Thousands of cans made by that company were already on grocers' shelves and even in some kitchen pantries. But consumers had no way of spotting them. The manufacturer's name is not required by law to be on the can and many

manufacturers' products sell under dozens of distributor brand names. Recalling all possibly tainted cans under these circumstances, or enabling consumers to avoid them, was an almost impossible task.

Under my bill, consumers will be able to tell at a glance who made each food product and determine whether they could safely buy or use it.

The idea for the proposal came from a constituent of mine, Mrs. Francis J. Heffernan, who complained in a letter to me that Bon Vivant products were selling under various brand names in her neighborhood without any indication that Bon Vivant made them. My correspondence with the Food and Drug Administration reveals that manufacturers and distributors are taking advantage of a loophole in the Fair Packaging and Labeling Act which permits them to imprint the name and address of the manufacturer, packer, or distributor on the labels. My bill will close that loophole and require that the name and address of the manufacturer as well as the distributor, and the packer—if different from the manufacturer—appear on the label.

Initial cosponsors of this proposal proposal include: Mr. BADILLO, Mrs. CHISHOLM, Mr. DANIELSON, Mr. DONOHUE, Mr. EILBERG, Mr. FASCELL, Mr. GUDE, Mrs. GRASSO, Mr. HALPERN, Mr. HELSTOSKI, Mrs. HECKLER of Massachusetts, Mr. LENT, Mr. MCCORMACK, Mr. MATSUNAGA, Mrs. MINK, Mr. MITCHELL, Mr. MORSE, Mr. PELLY, Mr. PODELL, Mr. RHODES, Mr. RYAN, Mr. TIERNAN, Mr. SCHWENGEL, Mr. ST GERMAN, Mr. HARRINGTON, Mr. MINISH, Mr. HAWKINS, and Mr. RHODES.

Following is the text of my correspondence with Mrs. Heffernan and the Federal agencies regarding this legislation:

NEW YORK CITY,
July 12, 1971.

Hon. JONATHAN BINGHAM,
New York City.

DEAR MR. BINGHAM: With regard to the unfortunate matter of the Bon Vivant Soup Co. there is one aspect which troubles me—and of which little has been said. That is, the fact that this company's product was marketed under many different labels—and the public was completely unaware of the fact that they were not getting a product processed by the company whose labels the can bore. In other words, when I purchase a product put out by S. S. Pierce I assume I am getting a superior product. If I wanted something cheaper (and, I believe, not so good) I would purchase another brand.

I think legislation should be passed to protect the consumer in this respect. Every can should show the actual processor of the food, in addition to the label under which it is sold. When I buy "Ann Page" products (A & P)—who has put it up; the same goes for Grisdale products and others too numerous to mention.

Sincerely yours,

LILLIAN HEFFERNAN.

AUGUST 10, 1971.

Mrs. FRANCIS J. HEFFERNAN,
New York, N.Y.

DEAR MRS. HEFFERNAN: Thank you for your interesting letter concerning the labeling of foods. I certainly share your concern.

As you may know, the Congress passed a very comprehensive "Truth in Packaging Act" in 1966. I am contacting the Federal Trade Commission and the Food and Drug Administration, which administer that Act, to determine whether the type of information you mention is or could be required under its provisions. If their responses are not satisfactory I will certainly give serious consideration to introducing legislation to amend that Act, to require that the actual manufacturers be noted on food labels.

In any case, I will be in touch with you further on this matter.

Cordially,

JONATHAN B. BINGHAM.

FEDERAL TRADE COMMISSION,
Washington, D.C., Aug. 19, 1971.

Hon. JONATHAN B. BINGHAM,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: This will further acknewledge your recent correspondence which contained a letter from Mrs. Francis J. Heffernan of New York City. Mrs. Heffernan cites the recent unfortunate matter involving the Bon Vivant Soup Company and seeks information concerning the requirement for the name and place of business of a manufacturer on the product.

As noted by you in your interim response to Mrs. Heffernan's letter, the Fair Packaging and Labeling Act requires each label of a consumer commodity to bear the name and place of business. However, this name may be that of either the manufacturer, packer, or distributor as now set forth in the Act. The implementing regulations require that when the name used is not that of the manufacturer then a qualifying phrase must be used such as "Distributed by ———" or "Manufactured for ———".

As I am sure you realize, foods, drugs, cosmetics and devices are under the jurisdiction of the Food and Drug Administration while all other "consumer commodities", as that term is defined in the Act, are under the jurisdiction of the Federal Trade Commission. Since your interest is primarily concerned with the labeling of foods, the information provided by the Food and Drug Administration to your inquiry will be most applicable.

If I may be of further assistance, please do not hesitate to let me know.

With kind regards,

Sincerely,

MILES W. KIRKPATRICK,
Chairman.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,
Rockville, Md., August 27, 1971.

Hon. JONATHAN B. BINGHAM,
House of Representatives,
Washington, D.C.

DEAR MR. BINGHAM: This is in reply to your request of August 4, 1971, for comment on a letter from Mrs. Francis J. Heffernan, New York, New York, concerning labeling.

Both the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act require that name and place of business of the manufacturer, packer, or distributor be on the label. FDA does not have authority to specify which of the above must be declared.

The Federal Food, Drug, and Cosmetic Act does, however, authorize the inspection of shipping records and food products must carry lot numbers identifying their source for recall and other purposes pursuant to our good manufacturing practice regulations (21 CFR 128.8(i)).

If we can be of further assistance, please let us know.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

FARMERS HOME ADMINISTRATION PROVIDES INVALUABLE SERVICE TO THE RURAL COMMUNITY

(Mr. ROUSH asked and was given given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSH. Mr. Speaker, the Farmers Home Administration is an "unsung hero." I say "unsung" because our rural problems, until recently, have grown in an atmosphere of little attention. FHA programs were undernourished for years. Fortunately, we are finally facing up to the fact that, on a per capita basis, the rural community has twice the housing problem endured in the cities. Water supply systems in many regions are still primitive and badly in need of modernization. But most important of all, it must be noted that other economic dilemma in rural America interrelates very seriously with our urban problems. Because of the situation, many have been forced to seek employment and in many cases unemployment in our cities. The small rural community is a diminishing commodity.

In the face of this, the Farmers Housing Administration assumes the role of hero because it provides loans and grants in an effort to improve living conditions, solve water supply problems, and thereby help to halt the migration. Loans are being made in record proportions. The dollars loaned in fiscal 1971 surpassed any previous year. More than 3 million rural citizens were benefited. In my own congressional district, the Fourth District of Indiana, loans in excess of $6.2 million have accounted for the financing of 480 new homes. Another $1¼ million has gone specifically to farming service loans.

The record is clear; this agency is providing invaluable service. The rural community is responding to this opportunity to help itself. And because of this opportunity and response, it is evident that the programs are working. But further expansion is required—the rural economic condition demands it. More importantly, consideration for the lives involved demands it.

FREE CHINA BETRAYED

(Mr. GROSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, the outrageous action by which the United Nations expelled Free China has aroused in the American people a deep sense of anger and betrayal, and rightly so.

One lucid expression of this comes from the newsletter of the Southern States Industrial Council, an organization of chief executives of Southern businesses, both large and small, which employ more than 3 million people.

In order that the Members of Congress may have an opportunity to read these views, I include the newsletter for insertion in the RECORD at this point:

SENSING THE NEWS

(By Anthony Harrigan, Executive Vice President, Southern States Industrial Council)

The expulsion of Free China from the United Nations exposes the worthlessness of that organization as an agency of peace and freedom in the world. Red China, which fought U. N. peace-keeping forces on the battlefield in Korea and which sponsored aggressive warfare in Southeast Asia, is re-

warded with membership in the international body. The Free Chinese on Taiwan, who have bravely opposed communist tyranny for more than two decades, are treated as outcasts.

In these circumstances, the United States Congress has every reason to withdraw all financial assistance from the United Nations. Indeed, there is strong by-partisan sentiment in Congress to do precisely that. For years, the United States has financed the U. N. while the organization worked against American interests and the cause of freedom. Now is the time to take decisive action. Free nations throughout the world should know that the American people do not countenance rewards for aggressor states. While signaling their convictions to other countries Americans also should clearly understand the background of the betrayal of the free Chinese, who are allies of the United States.

The Nixon administration must take full blame for the disaster at the U. N. In recent weeks, the Administration had an opportunity to warn the U. N. that it would cut off funds for the organization's operations if a free nation were expelled to make a place for one of the most tyrannical and dangerous governments of modern times. Numerous members of Congress called on President Nixon and urged him to voice such a warning. He did not heed their request—instead Secretary of State Rogers issued a special statement, announcing that the U.S. would not cut off funds.

The expulsion of Free China has deeper roots than that, however. From the beginning of his administration, Mr. Nixon made it plain that he sought a new "understanding" with Communist China. When he announced his mission to Peking it was apparent that he would seek this understanding at the expense of Free China. The announcement of the mission was de facto recognition of a country responsible for thousands of American deaths in Korea and which still holds Americans captured in that war. It is no wonder, therefore, that Pakistan's ambassador to the U.N., who voted to admit Red China and expel Free China, said: "I would like to acknowledge that President Nixon's new policy contributed to the victory." This is a true statement worthy to be remembered when Mr. Nixon's presidential record is assessed.

Now, unless the administration changes course, Red China will have a seat on the Security Council as President Nixon suggested. Red China's representatives will be based in New York where they will have abundant opportunities for propaganda and subversion. Can anyone doubt that formal recognition of Red China, with Peking's ambassador stationed in Washington, will be far behind? The status of Free China in American official circles is likely to diminish to that of the shadow representation of such captive nations as Estonia and Latvia.

It is incredible that these developments should take place in an administration once regarded as hard-line anti-communist. It seems unlikely that a liberal Eugene McCarthy or Hubert Humphrey would have dared abandon the Free Chinese as rapidly as Richard Nixon has abandoned these reliable allies. The real losers in this diplomatic disaster are the American people, for the Red Chinese are determined to humiliate and cripple the United States. President Nixon in recent months has conferred enormous political advantage on Peking. The Chinese Communist regime has achieved a new great power status in the world as the result of Mr. Nixon's abandonment of a containment policy maintained by four presidents.

The American people are likely to pay dearly in blood and national treasure for Mr. Nixon's appeasement of Red China. As for the U.N., it most probably will go the way of the League of Nations after that organization appeased fascist Italy in 1935 by ignoring the plight of Ethiopia.

BILL TO BRING EMPLOYEES OF PRIVATE AND NONPROFIT HOSPITALS UNDER COVERAGE OF NATIONAL LABOR RELATIONS ACT

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON of New Jersey. Mr. Speaker, on November 9th, 10th, and 16, the Special Subcommittee on Labor will hold hearings on H.R. 11357, a bill to bring employees of private, nonprofit hospitals under the coverage of the National Labor Relations Act.

These employees were initially covered by the NLRA when it was passed in 1935, but then were excluded from coverage in 1947 when the Taft-Hartley amendments were passed. The legislative history sheds little light on the reasons for their exclusion, and we intend to reexamine the wisdom of that decision.

We will also be looking at the problems of employees in publicly-operated hospitals and private, for-profit hospitals and nursing homes during these hearing. The number of serious hospital strikes in recent years in all categories of hospitals, and by the way they employ well over 2 million people, has convinced me that the congress should examine the underlying causes of this unrest and determine whether a legislative remedy is called for. As is our practice, we plan to receive testimony from some of the employees themselves, the unions involved, management representatives, and experts from the academic community.

I include at this point in the RECORD a staff analysis of H.R. 11357, which traces the history of the present exemption.

The analysis follows:

H.R. 11357

EMPLOYEES OF NONPROFIT HOSPITALS

Purpose of H.R. 11357

H.R. 11357 is intended to restore to employees of nonprofit hospitals the rights guaranteed to most all other employees by section 7 of the National Labor Relations Act "to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection," and the corollary right in section 7 "to refrain from any and all such activities."

H.R. 11357 would also give to employers the rights guaranteed to most all other employers, i.e., the right to invoke the protections of the National Labor Relations Act against the unfair labor practices engaged in by unions as enumerated in sections 8, 9, 10, and elsewhere.

Legislative History and Purpose of the Existing Exemption

Section 2(2) defines the term "employer" as not to include "any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual." This "exemption" was added to the original Wagner Act of 1935, in the Taft-Hartley Amendments of 1947 for reasons which are not altogether clear.

A. Decisions Under the Wagner Act.

The Wagner Act of 1935 did not exclude the employees of nonprofit hospitals from the protections afforded most other employees, and the Labor Board and the reviewing courts refused to create an exception by implication.

The only case reported under the Wagner Act is *Central Dispensary and Emergency Hospital*, 40 NLRB 1011 (1942). There, the Building Service and Maintenance Workers filed a petition to conduct an election among certain employees at the Emergency Hospital in Washington, D.C. to determine whether or not they wished to be represented by the union. The Labor Board agreed to conduct the election, and said the following:

"The Hospital contends that it is a charitable institution, but neither charitable institutions nor their employees are exempted from operation of the Act by its terms, although certain other employers and employees are exempted. If Congress did not intend to except charities from the scope of the Act, an exact determination of the Hospital's status in this respect becomes immaterial . . . *employees of hospitals, like employees of automobile factories, must live upon their wages.*" (Emphasis supplied.)

The Hospital appealed this Labor Board decision to the U.S. Court of Appeals for the District of Columbia. That court, in an opinion by then Judge Thurman Arnold, wrote:

"Respondent (Hospital) argues that the spirit or policy of the act is such that we should read into it an exemption of charitable hospitals. . . . We are unable to follow the reasoning. . . . We cannot understand what considerations of public policy deprive hospital employees of the privilege granted to the employees of other institutions. . . . *"NLRB* v. *Central Disp. & E. Hosp.*, 145 F. 2d 852 (1944), *cert. den.* 65 Ct. 684.

B. *The Taft-Hartley Amendments.*

In 1947, there were certain amendments offered to the Wagner Act. In the House, Representative Hartley introduced a bill which would have exempted from the Labor Act "institutions that qualify as charities under our tax laws," i.e., churches, hospitals, schools, colleges, and societies for the care of the needy.

The only comment on the floor of the House came from Congressman Klein, who spoke in opposition:

" 'Employer,' for the first time, excludes charitable and educational organizations. While the number of workers thus deprived of any participation in the terms of their employment may not be large, it seems ironical that organizations devoted to the social welfare should be exempted from bargaining with their own, often underpaid employees."

The bill passed the House and it went to the Senate.

There was no committee report or proposal in the Senate comparable to that in the House. However, Senator Tydings offered a floor amendment to exclude from the term "employer" the nonprofit hospitals. Debate was very scant.

Senator Tydings explained that "this amendment is designed merely to help a great number of hospitals which are having very difficult times. They are eleemosynary institutions, no profit is involved in their operations, and I understand from the Hospital Association that this amendment would be very helpful in their efforts to serve those who have not the means to pay for hospital service."

Senator Taft then explained that "the committee considered this amendment, but did not act on it, because we felt it was unnecessary. The committee felt that hospitals were not engaged in interstate commerce; and that their business should not be so construed. We felt it would open up the question of making further exemptions. That is why the committee did not act upon the amendment as it was proposed."

The remainder of the debate was very brief, and between Senators Taylor and Tydings.

"Mr. Taylor: What does the amendment do? Does it prevent hospital employees, particularly nurses, from organizing? Is that the sense of the amendment?

"Mr. Tydings: It simply makes a hospital not an 'employer' in the commercial sense of the term. . . .

"Mr. Taylor: Would nurses be prevented from organizing—they are poorly paid.

"Mr. Tydings: I don't think so. . . . They (the hospitals) should not have to come to the National Labor Relations Board. . . . A charitable institution is away beyond the scope of labor management relations in which profit is involved.

"Mr. Taylor: These may not be profitmaking institutions, but even so I feel that simply because an institution, even one like the Red Cross, is kept up by popular subscription, the professional workers being employees of the Red Cross, should be permitted a decent living and should not be hamstrung in their efforts to obtain it.

"Mr. Tydings: I agree with the Senator."

The bill then passed the Senate. The conference committee accepted the Senate version, which is now part of section 2(2) of the National Labor Relations Act.

Experience Under the Exemption

The National Labor Relations Board, initially, extended the exemption to a host of other eleemosynary, charitable, educational and similar types of institutions.

1. Colleges and universities, *The Trustees of Columbia University,* 97 NLRB 424 (1951).

2. Symphonic orchestra, *Philadelphia Orchestra Association,* 97 NLRB 548 (1971).

3. Radio stations operated by religious organizations, *Lutheran Church, Missouri Synod,* 109 NLRB 859 (1954).

4. Institutions for the training of the handicapped, *Sheltered Workshops of San Diego, Inc.,* 126 NLRB 961 (1960).

5. Privately owned profit hospitals, *Flatbush General Hospital,* 126 NLRB 144 (1960).

6. Hotels operated by the YMCA, *Young Men's Christian Association of Portland, Oregon,* 146 NLRB 20 (1964).

7. Food service caterers at educational institutions, *Crotty Brothers, N.Y. Inc.,* 146 NLRB 755 (1964).

8. Oceanography studies conducted by private educational institution owned ships, *University of Miami, Institution of Marine Science Division,* 146 NLRB 1448 (1964).

9. Food service caterers at a hospital, *Horn and Hardart Co.,* 154 NLRB 1368.

Experience indicated that the withholding of Labor Board jurisdiction did not cut down on the number of strikes or of labor unrest. Accordingly, in recent years, the Labor Board began to assert jurisdiction over areas it had formerly left alone.

1. Private, profit hospitals, *Butte Medical Properties,* 168 NLRB 52 (1967).

2. Private, profit nursing homes, *University Nursing Home,* 168 NLRB 53 (1967).

3. Nonprofit, cooperative insurance companies, *California State Automobile Association,* 170 NLRB No. 106 (1968).

4. Professional sports, *The American League of Professional Baseball Clubs,* 189 NLRB No. 85 (1971).

5. Private colleges and universities, *Cornell University,* 183 NLRB No. 41 (1970).

6. Philanthropic lodging houses, *Penn-Keystone Realty Corp.,* 191 NLRB No. 105 (1971).

7. Nonprofit educational broadcast stations, *Pacifica Foundation,* 75 LRRM 1428.

The only broad area of charitable, educational, eleemosynary institutions wherein the Labor Board does not now exercise jurisdiction concerns the nonprofit hospitals, explicitly excluded from the Labor Act by section 2(2).

Changes Made in Existing Law by H.R. 11357

(Except as noted, existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman)

Section 2(2) of the Labor-Management Relations Act, as amended by this bill, would provide as follows:

"The term 'employer' includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof [or any corporation or association operating a hospital, if no part of the net earnings inure to the benefit of any private shareholder or individual], or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

ECONOMIC JUSTICE FOR TRANSIT RIDERS

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, on behalf of 19 New York City Members of Congress, I today sent a letter to Secretary of the Treasury John Connally, calling upon the Cost of Living Council to freeze all mass transit and commuter service fares at levels no higher than those in effect during the 90-day period of August 15 through November 14. The present freeze on fares should not be relaxed as long as wage and price controls are in effect.

In addition to these calls for administrative action, yesterday I introduced legislation (H.R. 1155) which would freeze all mass transit and commuter service fares through April 30, 1973. Today, I have reintroduced that legislation on behalf of myself and 16 members of the New York City congressional delegation.

Mass transportation and commuter services are part of the lifeblood of this Nation's urban centers. Millions of residents are dependent upon them. And any increase in fares, particularly at a time when wages and salaries are being subjected to stringent guidelines, would result in large numbers of individuals being made virtual prisoners in their own homes. Hardest hit would be those in low-paying and part-time jobs, as well as those who are unemployed or living on social security.

In order to insure economic justice for these individuals and to promote stabilization of the economy, it is essential that there be no increase in mass transit or commuter service fares.

The New York City delegation is particularly concerned about transit fares due to the immediate threat to the present 30-cent fare on New York City's subways and buses, in light of the defeat of the $2.5 billion transportation bond issue on Tuesday. Such a fare hike would be an outrage—perpetrated on those very people who can least afford it. It would be, in essence, an unconscionable and regressive form of taxation. The defeat of the bond issue does not change that fact. An increase in mass transit fares is as intolerable now as it was before the outcome of the balloting. And the failure of the bond issue cannot be used as an excuse for raising New York City's subway fares.

Although the bond funds will not be available, the balance of the agreed-upon package to maintain the present fare can still be put into effect. And with certain adjustments to make up for the lack of bond funds, New York's 30-cent fare can still be saved.

But the issue is much larger than just New York City's fare problems. Mass transit costs significantly affect millions of urban dwellers nationwide, most of whom are in low and moderate income brackets. For them mass transit and commuter services are essential. There simply is no adequate substitute. Allowing transit fares to rise would be an act of economic violence against them.

Joining me in sponsoring this legislation to freeze transit fares are Representatives BELLA ABZUG, JOSEPH ADDABBO, HERMAN BADILLO, MARIO BIAGGI, JONATHAN BINGHAM, FRANK BRASCO, HUGH CAREY, SHIRLEY CHISHOLM, SEYMOUR HALPERN, EDWARD KOCH, JOHN MURPHY, BERTRAM PODELL, CHARLES RANGEL, BENJAMIN ROSENTHAL, JAMES SCHEUER, and LESTER WOLFF.

At this point I include in the RECORD the text of the letter dated November 3, 1971, which has been sent to Secretary Connally calling for a continuation of the freeze on mass transportation and commuter service fares:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 3, 1971.

Hon. JOHN CONNALLY,
Chairman, Cost of Living Council,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to urge that all mass transit and commuter service fares be frozen at levels no higher than those in effect during the ninety-day period of August 15 through November 14.

Across the country, millions of low and moderate income people of necessity use mass transit in their daily lives. Increases in the price of this transportation thus fall most heavily upon them. Since wages and salaries are to be subject to severe guidelines, it is imperative that urban mass transit fares be frozen, so as not to subject people of low and moderate income to an untenable economic hardship.

Urban mass transit and commuter fares are particularly worthy of such attention because they are unavoidable. For most low and moderate income people who depend on urban mass transit, there really is no satisfactory substitute.

Thus we urge most strenuously that all mass transit and commuter service fares be maintained at levels no higher than present levels throughout the period that the Economic Stabilization Act and any amendments thereto are in effect.

With kindest regards.

Sincerely,

William F. Ryan, Charles B. Rangel, Mario Biaggi, Bella Abzug, Emanuel Celler, Hugh L. Carey, Frank J. Brasco, Benjamin S. Rosenthal, Edward I. Koch, Seymour Halpern, Joseph P. Addabbo, Shirley Chisholm, Herman Badillo, Lester L. Wolff, Bertram L. Podell, James H. Scheuer, Jonathan B. Bingham, John M. Murphy, James J. Delaney.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. HOLIFIELD for November 6 on account of official committee business.

Mr. BARRETT (at the request of Mr. NIX) for Thursday, November 4 and Friday, November 5, on account of illness.

Mr. PELLY. for week of November 8 to November 13 on account of personal business in district.

Mr. SAYLOR (at the request of Mr. GERALD R. FORD) for November 5, 1971, on account of official business.

Mr. MCKEVITT (at the request of Mr. GERALD R. FORD) for November 5, 1971, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. DU PONT) to revise and extend his remarks and include extraneous material:)

Mr. MILLER for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. REUSS for 20 minutes, today.

Mr. GONZALEZ for 10 minutes, today.

Mr. ASPIN for 10 minutes, today.

Mr. DENT for 5 minutes, today.

Mr. DAVIS of South Carolina for 15 minutes, today.

Mr. FLOOD for 10 minutes, today.

MRS. ABZUG for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WHITTEN, to revise and extend his remarks on H.R. 7248 and amendments thereto.

(The following Members (at the request of Mr. DU PONT) and to include extraneous matter:)

Mr. ESCH.

Mr. DERWINSKI in two instances.

Mr. WYMAN in two instances.

Mr. SCHERLE.

Mr. WHALEN.

Mr. BRAY in two instances.

Mr. HUNT.

Mr. DEL CLAWSON.

Mr. SCHWENGEL in three instances.

Mr. ROUSSELOT.

Mr. SCHMITZ.

Mr. GUDE in two instances.

Mr. BOB WILSON in three instances.

Mr. MCDONALD of Michigan.

Mr. KUYKENDALL.

Mr. WYLIE.

Mr. VANDER JAGT.

Mr. SMITH of New York.

Mr. DELLENBACK.

Mr. MCCLORY.

Mr. ANDERSON of Illinois.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous material:)

Mr. GONZALEZ in three instances.

Mr. CAREY of New York in three instances.

Mr. BADILLO in three instances.

Mr. DENT.

Mr. RARICK in three instances.

Mr. SYMINGTON.

Mr. ROONEY of New York.

Mr. HUNGATE.

Mr. MURPHY of New York.

Mr. ANDERSON of California in three instances.

Mr. JACOBS.

Mr. ANDERSON of Tennessee.

Mr. BARRETT.

Mr. CHAPPELL.

Mr. EVINS of Tennessee in three instances.

Mr. STEPHENS in three instances.

Mr. FAUNTROY in five instances.

Mr. BEGICH in three instances.

Mr. HOWARD.

Mr. RYAN in three instances.

Mr. WALDIE in three instances.

Mr. DORN in two instances.

Mr. PICKLE in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 976. An act to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster; to the Committee on Public Works.

S. 2770. An act to amend the Federal Water Pollution Control Act; to the Committee on Public Works.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 32 minutes a.m., Friday, November 5, 1971) the House adjourned until 12 o'clock noon.

OATH OF OFFICE OF MEMBER

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members of the House of Representatives, the text of which is carried in section 1757 of title XIX of the Revised Statutes of the United States and being as follows:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 92d Congress, pursuant to Public Law 412 of the 80th Congress entitled "An act to amend section 30 of the Revised Statutes of the United States" (U.S.C. title 2, sec. 25), approved February 18, 1948:

H. JOHN HEINZ III, 18th District of Pennsylvania.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1254. A letter from the Assistant Secretary of Defense (Comptroller), transmitting certification that during the period of January through June 1971, no use was made of funds appropriated in the Department of Defense or the Military Construction Appropriation Acts of 1971 to make payments under contracts in a foreign country except where it was determined that no excess foreign currencies of the country involved were available, pursuant to sections 837 and 109, respectively, of the above-mentioned acts; to the Committee on Appropriations.

1255. A letter from the Assistant Secretary of the Interior, transmitting certification that an adequate soil survey and land classification has been made of the lands in the San Luis Water District and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation, pursuant to Public Law 172, 83d Congress; to the Committee on Appropriations.

1256. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting a report on borrowing authority for the period ended June 30, 1971, pursuant to section 304(b) of the Defense Production Act of 1950, as amended; to the Committee on Banking and Currency.

1257. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1258. A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition; to the Committee on Armed Services.

RECEIVED FROM THE COMPTROLLER GENERAL

1259. A letter from the Comptroller General of the United States, transmitting a list of reports of the General Accounting Office issued or released in October 1971, pursuant to section 234 of Public Law 91-510; to the Committee on Government Operations.

1260. A letter from the Comptroller General of the United States, transmitting a report on fees not charged for processing applications for new drugs by the Food and Drug Administration, Department of Health, Education, and Welfare; to the Committee on Government Operations.

1261. A letter from the Comptroller General of the United States, transmitting a report on opportunities for increasing effectiveness of overseas trade exhibitions by the Department of State and the Department of Commerce; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 45. A bill to amend title 18 of the United States Code by adding a new chapter 404 to establish an Institute for Continuing Studies of Juvenile Justice; with amendment (Rept. No. 92–608). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 10344. A bill to authorize the District of Columbia to enter into the Interstate Compact on Mental Health (Rept. No. 92–609). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 11489. A bill to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969; with amendment (Rept. No. 92–610). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 11490. A bill to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia (Rept. No. 92–611). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.J. Res. 946. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes (Rept. No. 92–612). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 601. Resolution providing funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the House of Representatives and for the investigation of additional computer services for the House of Representatives; with amendment (Rept. 92–607). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLATNIK:

H.R. 11567. A bill to amend section 451 of the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees and to treat snowmobiles as highway vehicles for the purposes of such section; to the Committee on Ways and Means.

By Mr. CLARK:

H.R. 11568. A bill to amend the Internal Revenue Code of 1954 to limit the use of industrial development bonds to rural areas, to allow a credit against income tax to employers for the expenses of providing job training programs in rural areas, and otherwise to encourage fuller and more effective use of the human resources of such areas; to the Committee on Ways and Means.

By Mr. DANIELS of New Jersey:

H.R. 11569. A bill to provide certain new transportation services to elderly persons, to authorize studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes; to the Committee on Banking and Currency.

By Mr. DANIELS of New Jersey (for himself and Mr. ESCH):

H.R. 11570. A bill to amend the Manpower Development and Training Act of 1962 by postponing the expiration of title II thereof for 1 year; to the Committee on Education and Labor.

By Mr. HELSTOSKI:

H.R. 11571. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the vocational rehabilitation subsistence allowances, the educational assistance allowances, and the special training allowances paid to eligible veterans and persons under such chapters; to the Committee on Veterans' Affairs.

H.R. 11572. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing the deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

H.R. 11573. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 11574. A bill to amend the Urban Mass Transportation Act of 1964 to authorize grants and loans to private nonprofit organizations to assist them in providing transportation service meeting the special needs of elderly and handicapped persons; to the Committee on Banking and Currency.

By Mr. KOCH (for himself and Mr. ROSTENKOWSKI):

H.R. 11575. A bill to amend title 23 of the United States Code to authorize construction of exclusive or preferential bicycle lanes, and for other purposes; to the Committee on Public Works.

By Mr. MILLS of Arkansas:

H.R. 11576. A bill to provide that the willful failure to file a final income tax return is a felony; to the Committee on Ways and Means.

By Mr. POFF:

H.R. 11577. A bill to designate the dam and reservoir on the Jackson River in the State of Virginia as the "Ben C. Moomaw Dam and Lake"; to the Committee on Public Works.

By Mr. PUCINSKI:

H.R. 11578. A bill to authorize the Secretary of the Interior to establish the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RYAN (for himself, Mrs. ABZUG, Mr. ADDABBO, Mr. BADILLO, Mr. BIAGGI, Mr. BINGHAM, Mr. BRASCO, Mr. CAREY of New York, Mrs. CHISHOLM, Mr. HALPERN, Mr. KOCH, Mr. MURPHY of New York, Mr. PODELL, Mr. RANGEL, Mr. ROSENTHAL, Mr. SCHEUER, and Mr. WOLFF):

H.R. 11579. A bill to amend the Economic Stabilization Act of 1970 to stabilize mass transit and commuter service fares through the period ending midnight April 30, 1973; to the Committee on Banking and Currency.

By Mr. SLACK:

H.R. 11580. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. SPRINGER):

H.R. 11581. A bill to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators; to the Committee on Interstate and Foreign Commerce.

By Mrs. ABZUG:

H.R. 11582. A bill to amend the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BINGHAM (for himself, Mr. BADILLO, Mr. DANIELSON, Mr. DONOHUE, Mr. EILBERG, Mr. FASCELL, Mrs. GRASSO, Mr. GUDE, Mr. HALPERN, Mr. HARRINGTON, Mr. HATHAWAY, Mr. HAWKINS, Mr. HELSTOSKI, Mrs. HECKLER of Massachusetts, and Mr. LENT):

H.R. 11583. A bill to amend the Fair Packaging and Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business, and packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM (for himself, Mr. MCCORMACK, Mr. MATSUNAGA, Mr. MINISH, Mrs. MINK, Mr. MITCHELL, Mr. MORSE, Mr. PELLY, Mr. PODELL, Mr. RHODES, Mr. RYAN, Mr. ST GERMAIN, Mr. SCHWENGEL, and Mr. TIERNAN):

H.R. 11584. A bill to amend the Fair Packaging Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business, and packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. BROTZMAN (for himself, Mr. MCKEVITT, Mr. MCDADE, and Mr. ROE):

H.R. 11585. A bill to require that all schoolbuses be equipped with seatbelts for passengers and seatbacks of sufficient height to prevent injury to passengers; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLINS of Illinois (for himself and Mr. MILLS of Arkansas):

H.R. 11586. A bill to amend the Social Security Act to provide that the total amount of a State's required expenditures for aid or assistance under the cash public assistance programs during either of the fiscal years 1972 and 1973 shall not exceed the total amount of its expenditures under such programs during the fiscal year 1971: to the Committee on Ways and Means.

By Mr. DANIELSON:

H.R. 11587. A bill to establish the Cabinet Committee on Oriental-American Affairs, and for other purposes; to the Committee on Government Operations.

By Mr. FINDLEY:

H.R. 11588. An bill to continue mandatory price support for tung nuts only through the 1976 crop; to the Committee on Agriculture.

By Mr. GARMATZ (for himself, Mr. LENNON, Mr. DINGELL, Mr. LEGGETT, Mr. TIERNAN, Mr. CLARK, Mr. PELLY, Mr. DOWNING, Mr. GROVER, Mr. DE LA GARZA, Mr. JAMES V. STANTON, Mr. MILLS of Maryland, Mr. ROGERS, Mr. GOODLING, Mr. JONES of North Carolina, Mr. BYRNE of Pennsylvania, Mr. DU PONT, Mr. MCDONALD of Michigan, Mr. ASHLEY, Mr. FORSYTHE, Mr. KARTH, Mr. MCCLOSKEY, and Mr. ROONEY of Pennsylvania):

H.R. 11589. A bill to authorize the foreign

sale of certain passenger vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. HAMMERSCHMIDT:

H.R. 11590. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H.R. 11591. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers; to the Committee on Post Office and Civil Service.

By Mr. PRICE of Texas (for himself, Mr. STEIGER of Arizona, and Mr. ALEXANDER):

H.R. 11592. A bill to amend the Agricultural Act of 1949; to the Committee on Agriculture.

By Mr. STRATTON:

H.R. 11593. A bill to amend title 23 of the United States Code to authorize construction of exclusive or preferential bicycle lanes, and for other purposes; to the Committee on Public Works.

By Mr. SYMINGTON (for himself and Mr. COUGHLIN):

H.R. 11594. A bill to amend the Internal Revenue Code of 1954 so as to permit certain tax-exempt organizations to engage in communications with legislative bodies, and committees and members thereof; to the Committee on Ways and Means.

By Mr. ESCH:

H.R. 11595. A bill to establish a National Adoption Information Exchange System; to the Committee on Education and Labor.

By Mr. TEAGUE of Texas (by request):

H.R. 11596. A bill to amend chapter 41 of title 38, United States Code, to improve job counseling and employment services for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PRYOR of Arkansas:

H.R. 11597. A bill to provide that all nursing homes receiving Federal assistance in any form must meet the standards imposed upon nursing homes under the medicaid program; to the Committee on Interstate and Foreign Commerce.

By Mr. SEIBERLING:

H.J. Res. 953. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. HANLEY:

H. Con. Res. 445. Concurrent resolution to protect the domestic specialty steel industry; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mrs. HICKS of Massachusetts, Mr. FORSYTHE, Mr. RYAN, Mr. HOGAN, Mr. BUCHANAN, Mr. COUGHLIN, Mr. ROSENTHAL, Mr. ABBADDO, Mr. MAZZOLI, Mr. BIAGGI, Mr. PIKE, Mr. YATES, Mr. HELSTOSKI, Mr. MCCLOSKEY, Mr. ST GERMAIN, Mr. SCHWENGEL, and Mr. DENHOLM):

H. Con. Res. 446. Concurrent resolution expressing the sense of Congress with respect to placing before the United Nations General Assembly the issue of the dual right of all persons to emigrate from and also return to one's country; to the Committee on Foreign Affairs.

By Mr. MINISH:

H. Con. Res. 447. Concurrent resolution expressing the sense of Congress that there should be a boycott in the United States of French-made products until the President determines France has taken successful steps to halt the processing of heroin and its exportation to the United States; to the Committee on Ways and Means.

By Mr. ANDREWS of North Dakota:

H. Res. 684. Resolution calling for the shipment of Phantom F–4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. EDMONDSON:

H. Res. 685. Resolution calling for the shipment of Phantom F–4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. GREEN of Pennsylvania:

H. Res. 686. Resolution calling for peace in northern Ireland and the establishment of a united Ireland; to the Committee on Foreign Affairs.

By Mr. NIX:

H. Res. 687. Resolution calling for the shipment of Phantom F–4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. VEYSEY (for himself, Mr. PETTIS, Mr. ROUSSELOT, Mr. TEAGUE of California, and Mr. BOB WILSON):

H. Res. 688. Resolution calling for the shipment of Phantom F–4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. WYMAN:

H. Res. 689. Resolution concerning Phantom F–4 aircraft for Israel and other matters; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ARCHER introduced a bill (H.R. 11598) for the relief of Oi Kwan, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

GEORGE BUSH RAN ALL THE WAY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

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Mr. STEIGER of Wisconsin. Mr. Speaker, this week's Life magazine contains a warm tribute to the U.S. Ambassador to the United Nations, George Bush.

There are some cynics who claim that the President and our U.N. delegation were not really serious in the effort to preserve Taiwan's membership in the United Nations.

No one, in my judgment, could have more effectively carried out the policy of this Nation than George Bush and Peter Young's perceptive piece deserves the thoughtful attention of the Congress:

IS IT ARM TWISTING TO LET THEM KNOW HOW WE FEEL?

(By Peter Young)

Almost to the end, Ambassador George Bush had been optimistically predicting a small margin of victory for the U.S. position. Then the danger signs began to appear. On a procedural vote granting priority to the U.S.'s "important question" resolution, Bush won—but by two votes less than he had anticipated. Next, the newly admitted Sultanate of Oman, under heavy lobbying from Arab delegations who favored Peking, left the hall with orders to stay away. Qatar, another new mini nation and an apparent ally of the U.S., "took gas," as one observer put it, and abstained from voting. Ireland's opposition was still another surprise blow.

At one point during the vote, Bush enormously provoked about something, was seen rushing to the side of a delegate from Cyprus. The Cypriot had performed an about-face on the floor, abstaining on the key vote despite his government's previous commitment to support the U.S.

Later, surveying he shambles of defeat, Bush still couldn't believe some of the turnarounds that had brought it about. "At the start, we had all the votes we needed. Then we got these defections from countries we had thought were assured. I can understand the views of our allies who were opposed to us all along on this issue. They have certain bilateral relations with the People's Republic that must be respected. What I can't understand is infidelity, when a delegate who has given his firm assurance of support suddenly goes against you. That's going back on one's word."

For Bush, who just a year ago lost another political battle—his own race for the U.S. Senate as a Republican from Texas—the China outcome was a "tremendous disappointment." In trying to save Taiwan's seat, he had set what must be a U.N. track record for personal effort.

"On to the next event!" was his manner of welcoming each new day leading up to the crucial votes. He wolfed down breakfasts of cold cereal and yogurt—or milk and crackers if the ulcers were back. Then staff meetings at the mission at 9:30. Sponsors' meeting at 10:30. Lobbying at the missions of Ghana ("On the fence") and Indonesia ("Question mark"). Back to the U.N. north lounge to sound out a Nigerian delegation ("Opposed"). Lunch at the Waldorf Astoria with Secretary General U Thant ("I think he feels we are on a losing wicket, but he has been discreet enough to stop short of influencing the vote"). An afternoon spent politely listening to speeches in the General Assembly. Five-thirty cocktails with the Liberians ("They're strongly on our side in this"). A private drink with Secretary of State Rogers. A phone call to the President (" 'Win it! Win it!' he tells me"). A black-tie dinner at the Iranian mission ("No comment"). And finally back to his luxurious 42nd-floor ambassador's suite in the Waldorf Towers for a light scotch and water ("Sometimes I'm so tired I want to cry").

"We came a long way," says Bush, "but not long enough. Two months ago we really would have been clobbered. There was this oddball notion that we weren't serious, just going through the motions. We laid that one to rest. We went out to the big and the small. Fiji, Upper Volta. You can't kiss off the smaller countries and say those wieners don't count. They all count.

"Then there was the problem of getting sponsors for our resolutions. We'd be told, 'You've got Chad and Nicaragua and that's it. Ha, ha.' We were told we'd never get Australia and New Zealand. So, okay, they come on board. Then they said Japan would never join as a sponsor. No way. And we get Japan. So, finally, I guess you could say we solved the problem of quality cosponsors. Unfortunately, it wasn't enough."

Bush is a lanky, singularly personable, Yale-educated 47-year-old who made his for-