Walsh, Thomas Joseph
Walton, Peter Rust
Ward, Chester Douglas
Ward, Douglas Earl
Ward, Paul Charles
Waring, Thomas
Waschbusch, John Frank
Wasson, Gary Clinton
Waters, Daskin Davon
Waters, William Allen
Watson, David
Watts, Bruce Randall
Wayne Anthony
Webber, Abbott Milton, Jr.
Weber, Steven David
Weeks, Robert Allen
Weil, Donald
Weinzappel, Kenneth Henry
Weiselberg, Stuart
Welch, Daniel Francis
Welch, Keefer Dee
Wells, Cyril Franklin
Wells, Linton II
Wendel, William Hall, Jr.
West, David Joe
West, William David
Weston, Frank Howard, Jr.
Wetzel, Kenneth Robert
Wharton, Roger Lee
Wheeler, David Larry
Wheeler, William Richard
Whitcomb, Giles Macnair
White, Charles Theodore
White, Joseph Roger
White, Peter Leroy
White, Robert Paul
Whittemore, Frank Case
Wickes, James Richard
Widener, Douglas Gene
Wier, Joel Alexander, III
Wiggers, Francis Earl, Jr.
Wigington, Don Billy, Jr.
Wiles, Marvin Benjamin Christo
Wilkinson, Alfred Justus, Jr.
Willever, Kent Arlington
Williams, David Michael
Williams, Gregory Bruce
Williams, Kenneth Roger
Williams, Ronald David
Williams, Thomas Patrick
Williamson, John Charles
Williamson, Robert Charles, Jr.
Willis, Gerald David
Wilson, Donald Lewis
Wilson, John Franklin
Wilson, Peter Ray
Winczewski, Laramie Martin
Wingfield, Thomas Julian, III
Winters, Timothy Paul
Wise, Bobby Gene
Wisniewski, John Leslie
Witt, Ronald Charles
Wittenberg, Robert Ralph
Wojtkowiak, Daniel Leonard
Wolf, Robert William
Wolsoncroft, Thomas Ray
Wong, Danny
Wonicker, William Curtis
Wood, James Alan, II
Wood, Kenneth Arthur, Jr.
Woodall, Stephen Russell
Woodfin, Richard Henry Jr.
Woodward, Harlan Wilferd
Woolsey, Wiley George, Jr.
Wortham, Thomas Robert, Jr.
Worthy, Charles Donald, Jr.
Wozniak, John Frederick
Wright, David Earl
Wright, James Earl
Wright, Peter Warren
Wyman, Bruce Dana
Weikel, William Shaw
Weiler, Herold James III
Weir, Marshall Ray
Weissner, William Wells
Welch, James Taylor
Welch, Raymond Vincent, Jr.
Wells, Jack Lawrence
Welsch, James Edward
Wendt, Terrill Jay
West, William Robert
Westfall, John Charles
Weston, Stephen Frederic
Whalen, John Francis III
Wheary, Eugene Patrick
Wheeler, Mary Wayne
Whittle, Thomas Joseph
White, Allen Hardin, Jr.
White, Craig Cameron Lynn
White, James Wilbur
White, Robert Dale
Whitley, Robert Benjamin
Whittemore, Michael Alan Nye
Wicks, Samuel Clayton
Wieczorek, Stephen George
Wiese, Clifford Allen
Wiggins, Joseph Lambert, Jr.
Wilcock, John Lester, Jr.
Wilkening, Walter Lawrence
Willard, Robert Bruce
Willhite, Allen Leroy
Williams, Frank Laverne
Williams, Jack Bercaw, Jr.
Williams, Robert Eldon, Jr.
Williams, Thomas Johns, Jr.
Williams, Thomas Ryland
Williamson, Francis Thomas, Jr.
Willis, Barry Smartt
Wilmarth, Lance Alan
Wilson, Eldon Stephen
Wilson, Martin Bernard
Wilson, Wayne Bruce
Windle, Ralph Edward
Winners, Donald Lincoln
Wise, Billy Butch
Wise, William Allen III
Witherspoon, James Bradley, Jr.
Witt, Theodore Carl William
Woerner, James Paul, Jr.
Wolcott, Hugh Dixon
Wolford, Norman Henry
Womack, Jack Edward, Jr.
Wong, Peter Weikong
Wood, Gordon Leo, Jr.
Wood, John Robert, Jr.
Wood, William Allison
Wooden, Harry Holmes, Jr.
Woodson, Walter Browne III
Woolrich, Raymond Dudley
Wooten, Jonathan Wayne
Worthington, Jack C.
Woxland, Daniel Allan
Wright, Clinton Ernest
Wright, Gary Edward
Wright, John Thomas
Wright, Vernon Eugene
Yankoupe, George William
York, Richard John
Young, Donald Michael
Young, Jeffrey Alan
Young, Terry Alan
Young, Walter Gregory
Yates, Cornelius Harringto III
Young, Brian Walter
Young, John Jeffrey
Young, Peter Adams
Young, Thomas Robert
Zaiser, Gene Henry
Zando, Paul Joseph
Zemansky, Gilbert Marek
Ziegler, Philip Eugene
Zimny, Eric Brian
Zallnick, Anthony Francis, Jr.
Zebal, Bradley Howard
Zemetra, Michael Brundage
Zientek, Steve Michael
Zinkand, Thomas Martin
Zondorak, William Martin
Zuga, Leonard Francis
Zumsteg, Howard Oliver, Jr.
Zveare, Dennis Leeth
Zino, Richard Charles
Zucker, Clayton George
Zuhr, Kenneth Christian
Zvacek, Robert Dale
Bankert, Harlan R., Jr.
Oyler, Joe R., II
Valenty, John T.
Hughes, Gary M.
Rusling, Ward P.

The following-named officers of the U.S. Navy for temporary promotion to the grade of captain in the Medical Corps subject to qualification therefor as provide by law:

Phillips, William.
Wagner, William J.

Lt. Comdr. John F. Clymer, Medical Corps, U.S. Navy, for temporary promotion to the grade of commander in the Medical Corps, subject to qualification therefor as provided by law.

The following-named officers of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line subject to qualification therefor as provided by law:

Daniels, Richard F.
Froelich, Jacob C.
Kicker, Charles K.

HOUSE OF REPRESENTATIVES—*Tuesday, December 16, 1969*

The House met at 12 o'clock noon.

The Reverend Nelson C. Pierce, associate director of development, Alice Lloyd College, Pippa Passes, Ky., and president of the National Council of Community Churches, offered the following prayer:

Our Father, Thou hast been our dwelling place in all generations. From the beginning of time to its end, Thou art God. In these days of strife and turmoil and change we find stability in Thee and we are grateful.

We thank Thee for the life which Thou hast given us and for the purpose to which daily Thou dost call us. Grant that each of us may fulfill our appointed purpose this day. Speed us to our work with a sense of the urgency of each moment.

May Thy rich blessing be with the Congress, the courts, the President of the United States, and upon all who are absent from home in the service of our Nation. And O speed the day of peace on earth and good will among all men, for Thy name's sake. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 11711. An act to amend section 510 of the International Claims Settlement Act of 1949 to extend the time within which the Foreign Claims Settlement Commission is required to complete its affairs in connection with the settlement of claims against the Government of Cuba.

The message also 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. 8449. An act to amend the act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907; and

H.R. 15090. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 15090) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RUSSELL, Mr. MCCLELLAN, Mr. ELLENDER, Mr. STENNIS, Mr. JACKSON, Mr. YOUNG of North Dakota, Mrs. SMITH of Maine, and Mr. ALLOTT to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3016) entitled "An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, to authorize advance funding of such programs, and for other purposes," and agree to the conference requested by the House on the disagreeing votes of the two Houses, and appoints Mr. NELSON, Mr. YARBOROUGH, Mr. PELL, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. MURPHY, Mr. JAVITS, Mr. PROUTY, Mr. DOMINICK, and Mr. SMITH of Illinois to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate, to the bill (H.R. 4293) entitled "An act to provide for continuation of authority for regulation of exports," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MUSKIE, Mr. WILLIAMS of New Jersey, Mr. MONDALE, Mr. HUGHES, Mr. TOWER, Mr. BENNETT, and Mr. BROOKE, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2244. An act to amend section 212(a) of the Interstate Commerce Act, as amended, and for other purposes.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS—WATERSHED PROTECTION AND FLOOD PREVENTION ACT WORK PLANS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works, which was read and referred to the Committee on Appropriations:

DECEMBER 12, 1969.

Hon. JOHN W. MCCORMACK,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: Pursuant to the provisions of Section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Public Works has approved the work plans transmitted to you which were referred to this committee. The work plans involve the following States and Watersheds:

Arkansas, Galla Creek, Executive Communication No. 1055, committee approval, December 11, 1966.

Georgia, Soque, Executive Communication No. 1055, committee approval, December 11, 1969.

Mississippi, Copiah Creek, Executive Communication No. 1055, committee approval, December 11, 1969.

Mississippi, Line Creek, Executive Communication No. 1055, committee approval, December 11, 1969.

New Mexico, Corrales, Executive Communication No. 1055, committee approval, December 11, 1969.

North Carolina (Supplement), Town Fork Creek, Executive Communication No. 1055, committee approval, December 11, 1969.

North Dakota, Square Butte Creek, Executive Communication No. 1055, committee approval, December 11, 1969.

Ohio (Supplement), Rush Creek, Executive Communication No. 1055, committee approval, December 11, 1969.

South Carolina, North Tyger River, Executive Communication No. 1055, committee approval, December 11, 1969.

Texas, McClellan Creek, Executive Communication No. 1055, committee approval, December 11, 1969.

Arkansas, Little Mulberry Creek, Executive Communication No. 1230, committee approval, December 11, 1969.

Georgia, Big Creek, Executive Communication No. 1230, committee approval, December 11, 1969.

Montana, Big Spring Creek, Executive Communication No. 1230, committee approval, December 11, 1969.

New Mexico, Tucumcari Draw, Executive Communication No. 1230, committee approval, December 11, 1969.

Oklahoma, Brushy-Peaceable Creek, Executive Communication No. 1230, committee approval, December 11, 1969.

Texas, Comal River, Executive Communication No. 1230, committee approval, December 11, 1969.

Texas, Lower Running Water Draw, Executive Communication No. 1230, committee approval, December 11, 1969.

Texas and New Mexico, Running Water Draw, Executive Communication No. 1230, committee approval, December 11, 1969.

Sincerely yours,

GEORGE H. FALLON,
Chairman.

THE LATE HONORABLE JOHN McSWEENEY

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

Mr. BOW. Mr. Speaker, I am sure many Members of the House who served with my distinguished predecessor, the Honorable John McSweeney, will be saddened to learn of his passing on Saturday, December 13. John McSweeney was a fine patriotic citizen who served his country well.

John McSweeney represented the 16th Congressional District of Ohio in the 68th, 69th, 70th, 75th, and 81st Congresses.

Born in Wooster, Ohio, December 19, 1890, he was educated in the public schools of Wooster and the College of Wooster, and taught in the public schools there before enlisting in the U.S. Army in 1917.

John McSweeney had a distinguished career in the military service. He served overseas during the First World War from May 10, 1917 to August 11, 1919, and was promoted to captain and aide-de-camp to General Farnsworth on August 16, 1918. He was awarded the Purple Heart Medal and received the Croix de Guerre from the Government of France.

During World War II he returned to the service as a lieutenant colonel with the military government in Italy, 1943–46. For this service he received the Legion of Merit, the Italian Red Cross Medal, the Order of Malta, the Order of St. George, and a medal from the Pope.

Immediately after World War I service, John McSweeney engaged in the study of law at the Inns of Court in London and he was admitted to the practice of law in Ohio in 1925. He engaged in the practice of law in Wooster continuously thereafter except for those periods when he served in the Congress and as Ohio's State director of public welfare. He was honored by his party's nomination for U.S. Senator in 1940 and for Governor of Ohio in 1942. He will be long remembered as a distinguished citizen of Wooster and of the State of Ohio and a strong advocate of programs to benefit the veterans of all of our wars, his comrades in arms during World War I and World War II.

Mr. Speaker, Mrs. Bow and I extend to Mrs. McSweeney our deep sympathy and condolences.

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

Mr. BOW. I am happy to yield to the distinguished majority leader.

Mr. ALBERT. Mr. Speaker, I was saddened to hear of the death of John McSweeney, who served a 1-year term after I came to Congress. I knew him as a very fine man, and a distinguished and able Member of the House of Representatives. He has left many friends among those who were serving here 20 or more years ago.

Mr. Speaker, I join my friend, the gentleman from Ohio (Mr. Bow), in extending to John McSweeney's loved ones my deepest sympathy.

Mr. BOW. I thank the gentleman.

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

Mr. BOW. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I share the views expressed by the distinguished gentleman from Ohio (Mr. Bow), and my colleague, the distinguished majority leader, the gentleman from Oklahoma (Mr. ALBERT). I, too, wish to extend to the family of John McSweeney my deepest condolences at this time of sadness.

Mr. Speaker, it was my privilege to know John McSweeney while we were both Members of the House of Representatives. He was a fine gentleman, and an able Member of the House of Representatives. I am sure that the contributions he made in the House will be well recognized in the years ahead. John McSweeney was dedicated to the public good

as he saw it. I admired and respected him as a friend and legislator.

Mr. BOW. I thank the distinguished minority leader.

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

Mr. BOW. I yield to the distinguished gentleman from Ohio (Mr. ASHBROOK) who now represents the Wooster district in Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman from Ohio for yielding. I, too, would like to rise and express my appreciation for having known this wonderful man for the few years I have been privileged to represent this district. His death was a loss to our area as well as the whole Nation.

I would say, Mr. Speaker, that John McSweeney had a dimension and a quality that is not achieved by many of us in politics.

Many people who are active in Government service become known—they may become respected, and in some cases they even become feared. But very few ever achieve the additional quality of being genuinely loved by our people. I would say in the case of John McSweeney that he was a person who was warmly loved, admired, and appreciated by his constituents, and by all of his friends in the State of Ohio.

Mr. Speaker, it was my great privilege just a few short years ago to attend an appreciation dinner for John McSweeney in Wooster, Ohio. I think if anybody could have seen the outpouring of sentiment for this fine man on that particular night they would know exactly what I am talking about.

So, Mr. Speaker, I too certainly wish to add my condolences to his loved ones, and to express my thought that here was a very fine citizen, a very fine American, a person who added a lot of luster to the field of public service at the very time when so many people in public service seem to be condemned by the public, and to be held in such low opinion. Here was a man who was held in such high respect and esteem—and rightly so. His public service stood as an example to all. He will be missed.

Mr. BOW. Mr. Speaker, I thank the gentleman.

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

Mr. BOW. I yield to the distinguished gentleman from Ohio, Mr. MINSHALL.

Mr. MINSHALL. Mr. Speaker, I also was shocked and saddened to learn of the passing of John McSweeney. I knew John McSweeney and his family well, our families were well acquainted. I can always think back at what a friendly, kindly, and gracious man he was, and although our political philosophies were somewhat at opposite ends of the spectrum, nonetheless he was respected and admired by all who knew him.

Mr. Speaker, I believe if there was one quality that could be said of John McSweeney—he was familiarly known as "June"—it would be his great quality of friendliness and fairness.

He was rich in years at his passing, but that does not mitigate the loss of one so many of us were proud to call our friend. He knew that the gift of friendship is one of the most essential qualities of happiness, and he had that gift in abundance. It is always hard to say farewell. We will miss John McSweeney, an outstanding American, a noble friend.

GENERAL LEAVE TO EXTEND

Mr. BOW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to express their views on the life and accomplishments of John McSweeney.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 15090, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. MAHON, SIKES, WHITTEN, ANDREWS of Alabama, FLOOD, SLACK, ADDABBO, LIPSCOMB, MINSHALL, RHODES, DAVIS of Wisconsin, and BOW.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 15090, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1970, UNTIL MIDNIGHT TOMORROW

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tomorrow to file a conference report on the bill (H.R. 15090) making appropriations for the Department of Defense for the fiscal year ending June 30, 1970.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

MYLAI HEARINGS

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

Mr. DICKINSON. Mr. Speaker, once again we see an example of an implied attack on the integrity and objectiveness of our Committee on Armed Services and on its special investigation subcommittee in this morning's Washington Post, where there appeared an article written by a fellow named George C. Wilson, captioned "Hearing Set on Pretrial Mylai Talk." He concludes, after writing at some length on the subject, by saying:

> Armed Services Committee sources predicted that the Hébert unit—

And I might say, Mr. Speaker, I am one of four who have been selected as members of a special subcommittee to look into the Mylai incident—

> will keep quiet until after the Army finishes its own investigation and then endorse the service's actions.

He does not name his so-called sources.

Mr. Speaker, I can only say that nothing could be further from the truth. While it is true that we will not be conducting our hearing in a circus atmosphere, as has gone on in some places about Capitol Hill, and we will be discrete in all that comes out of our committee in the very near future, the aims, and purposes of our special committee will be made public. They will not be startling disclosures that might prejudice anyone who might possibly have to stand trial on criminal charges under this action, but I can assure you that no one is more dedicated to the task of ascertaining, the truth than the members of this subcommittee.

We are not prejudiced pro or con. Whatever will be the actions of this committee, it will be what we determine as individuals and will not be an attempt to rubberstamp the action of any service or reflect on anyone else's opinion.

It would seem, Mr. Speaker, that this is another action to attack our committee by condemning in advance whatever action we take. I, for one, resent it.

PRESIDENT NIXON'S ANNOUNCEMENT

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

Mr. DEVINE. Mr. Speaker, last night the President announced he will bring 50,000 more troops home from Vietnam by April 15.

This will be good news to many American fighting men and their families.

The President's announcement demonstrates his great willingness and desire to unwind this war.

Unfortunately, as the President disclosed, the North Vietnamese have shown no desire to cooperate.

In fact, quite to the contrary. They refuse to negotiate in good faith in Paris.

And even as we bring our troops home, they increase their rate of infiltration in the South.

Mr. Speaker, even to those who wave the bloody flag of Ho Chi Minh in the name of peace, it should now be clear who the aggressor is. It is the Vietcong and the North Vietnamese who are not willing to end the killing and the bloodshed.

It is their belief that eventually America will surrender. Unfortunately, they have mistaken the strident shouts of a few for the voice of the American people.

I repeat, they are mistaken. Americans have made it clear they stand behind President Nixon. They have made it clear they will not settle for less than an honorable peace.

It is time for the North Vietnamese to do as the President urges. Abandon its dream of military victory and begin to negotiate seriously. They have nothing to gain by delay.

ATTACKS ON MEMBERS OF THE HOUSE

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

Mr. CARTER. Mr. Speaker, as a Member of this body of diverse and distinct heritage, I must admit to pride in its composition, a respect for its proceedings, and an abiding faith in its judgments. Although we may not agree, we every one try not to be disagreeable.

For the past 5 years, I have been deeply impressed by the enduring charm, kindliness, graciousness and fairness of our Speaker. As one Member of many in this body, I resent the insidious attacks made upon him. To me, he is the embodiment of kindliness.

Again, Mr. Speaker, I am aroused and disturbed when a columnist, though of ill repute, impugns the judgment, even the honor, of a man of the cloth, the respected and distinguished Member from Birmingham, Ala.

What Member within this body can know the pedigree and intimate personal history of each and every employee?

But such is the sadistic nature of some members of the press, that they would attempt to destroy the reputations of respected Members of this body with sordid and salacious stories.

These distinguished gentlemen have earned good names, and a good name is rather to be chosen than great riches, and loving favor rather than silver and gold.

As the Bard has said:

Who steals my purse steals trash,
'Tis something, nothing.
Twas mine, 'tis his and has been slave to thousands.
But he who filches from me my good name,
Robs me of that which not enriches him,
Yet makes me poor indeed.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. 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. 326]

Abbitt	Bolling	Conyers
Anderson, Tenn.	Brooks	Cunningham
Blatnik	Cahill	Dawson
	Clay	Fallon
Galifianakis	McFall	Reid, N.Y.
Gallagher	McMillan	Rhodes
Green, Oreg.	Martin	Rivers
Gubser	Miller, Calif.	Rooney, Pa.
Hall	Morton	Steed
Hanna	Moss	Teague, Tex.
Hébert	Nix	Tunney
Kirwan	Ottinger	Van Deerlin
Kluczynski	Pelly	Vander Jagt
Kuykendall	Pollock	Whalley
Lipscomb	Powell	
McEwen	Pryor, Ark.	

The SPEAKER. On this rollcall 388 Members have answered to their names, a quorum.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On December 11, 1969:

H.R. 9906. An act for the relief of J. Burdette Shaft and John S. and Betty Gingas; and

H.R. 14159. An act making appropriations for public works for water, pollution control, and power development, including the Corps of Engineers—Civil, the Panama Canal, the Federal Water Pollution Control Administration, the Bureau of Reclamation, power agencies of the Department of the Interior, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1970, and for other purposes.

On December 12, 1969:

H.R. 13763. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1970, and for other purposes.

PERSONAL ANNOUNCEMENT

Mr. SMITH of New York. Mr. Speaker, on rollcall No. 325, I was unavoidably detained. Had I been present, I would have voted "yea."

ELIMINATING THE REQUIREMENT THAT A UNIFORMED SERVICE MEMBER MUST MAINTAIN A RESIDENCE TO QUALIFY FOR FAMILY SEPARATION ALLOWANCE PAYMENTS

Mr. BENNETT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 110) to amend section 427(b) of title 37, United States Code, to provide that a family separation allowance shall be paid to a member of a uniformed service even though the member does not maintain a residence or household for his dependents, subject to his management and control.

The Clerk read the title of the bill.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, will the gentleman give us a brief explanation of the bill? I had assumed that these three or four bills would be called up after disposition of the Private Calendar. Will the gentleman briefly explain the bill?

Mr. BENNETT. I shall be glad to do so.

Mr. GROSS. What is the purpose and the cost of the bill?

Mr. BENNETT. H.R. 110 is designed to restore the family separation allowance to approximately 47,000 service families whose entitlement to this $30 monthly allowance was terminated on December 1, 1968, as a consequence of a ruling by the Comptroller General of the United States.

The Comptroller General of the United States in his decision of February 9, 1968—B–157486—ruled that unless a member maintains a residence or household for his dependents, subject to his management and control, which he will likely share with them as a common household when his duty assignment permits, he is not entitled to payment of the family separation allowance. The Comptroller General further stated that the entitlement does not exist if the dependents reside as guests or visitors in the home of relatives or friends, and the member maintains no other residence for them subject to his management and control.

H.R. 110 speaks directly to the Comptroller General's decision and provides additional language to the statute which would waive the requirement that the member maintain a residence or household for his family—under his management and control. The effect of such a change in the statute would resolve the issues raised by the Comptroller General by making it clear that such entitlement is not contingent upon the maintenance of a separate household under the service member's management and control.

DEPARTMENTAL POSITION

The Department of Defense, by letter dated April 24, 1969, advised the committee that it strongly supports enactment of H.R. 110.

FISCAL DATA

The Department advises that if H.R. 110 is enacted into law, it would result in an annual increase of approximately $17,000,000 in the budgetary requirements of the Department of Defense. However, funds to cover this additional cost have been included in the fiscal year 1970 budget.

Mr. GROSS. Further reserving the right to object, did the gentleman say that the cost would be $17 million?

Mr. BENNETT. That is correct.

Mr. GROSS. That is the annual cost?

Mr. BENNETT. That is correct.

Mr. GROSS. Is there comparable legislation with respect to civilian employees?

Mr. BENNETT. There is comparable legislation of a similar nature coming from another committee.

Mr. GROSS. Is there anything presently in the law comparable to this? Let me put it that way.

Mr. BENNETT. I understand that there is. Ordinarily civilian employees do not have this kind of allowance, but I understand some do, and those who do

receive this kind of treatment rather than the kind of treatment which the Comptroller General said had to be rendered to the military.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill as follows:

H.R. 110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 427(b) of title 37, United States Code, is amended by adding the following sentence at the end thereof: "An allowance is payable under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits."

SEC. 2. Section 1 of this Act is effective October 1, 1963.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE PAYMENT OF A FAMILY SEPARATION ALLOWANCE TO ELIGIBLE MEMBERS OF THE UNIFORMED SERVICES WITHOUT REGARD TO THEIR ASSIGNMENT TO GOVERNMENT QUARTERS

Mr. BENNETT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 386) to amend title 37 of the United States Code to provide that a family separation allowance shall be paid to any member of a uniformed service assigned to Government quarters providing he is otherwise entitled to such separation allowance.

The Clerk read the title of the bill.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the cost of this bill?

Mr. BENNETT. First, to explain the bill briefly, H.R. 386 addresses itself to the problem of entitlement to the monthly family separation allowance.

The provisions of H.R. 386 are designed to make eligible for this family separation allowance of $30 per month, that group of service personnel whose dependents are now occupying Government quarters.

Under the provisions of existing law, a member of the uniformed services whose dependents occupy Government quarters are not entitled to a family separation allowance despite the fact that he may otherwise meet the criteria of the statute.

The existing exclusion results from the language of the statute which establishes as one of the criterion for entitlement to this special separation allowance, a stipulation that it be payable only to those members who are "entitled to basic allowance for quarters." Thus, since the entitlement to the "basic allowance for quarters" does not arise in the instance of those members who are occupying Government quarters, they are precluded from the receipt of the monthly separation allowance, notwithstanding the fact that they might otherwise meet all of the other criteria of the statute.

DEPARTMENTAL AND FISCAL DATA

The Department of the Air Force, on behalf of the Department of Defense by letter dated August 19, 1969, had advised the committee that it strongly supports the objectives of H.R. 386. The Department further advises that if this modification is made in the statute it will increase the annual budgetary requirement by $2,653,000. This amount, however, has been included in the fiscal year 1970 budget of the Department.

Mr. GROSS. Mr. Speaker, does this provide for babysitting fees, extra transportation, and so on?

Mr. BENNETT. It only provides for the extra costs that a family experiences by virtue of the absence of the member.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 427(b) of title 37, United States Code, is amended by striking out "who is entitled to a basic allowance for quarters".

SEC. 2. The amendment made by this Act shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING CERTAIN REIMBURSEMENTS, TRANSPORTATION, AND VARIOUS ALLOWANCES, FOR MEMBERS OF THE UNIFORMED SERVICES AND THEIR DEPENDENTS

Mr. BENNETT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8021) to amend title 37, United States Code, to authorize a dislocation allowance under certain circumstances, certain reimbursements, transportation for dependents, and travel and transportation allowances under certain circumstances, and for other purposes.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 8021

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That chapter 7 of title 37, United States Code, is amended as follows:

(1) Section 404(d) is amended by adding the following new sentence: "In addition to the allowances authorized by this section reimbursement may be allowed for the actual cost of parking fees, ferry fares, and bridge, road, and tunnel tolls."

(2) Section 404 is amended by adding the following new subsection:

"(g) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service who receives change of permanent station orders while he is away from his permanent station under orders may, without regard to the comparative cost of the various modes of transportation, be authorized travel and transportation allowances for travel performed or to be performed by him to the permanent station from which ordered for the purpose of settling his personal affairs and, from that station, to the permanent station to which ordered. Travel performed under this subsection is considered to be travel on official business."

(3) Section 406 is amended by adding the following new subsection:

"(i) Where a member is ordered to sea duty on a vessel or with a mobile unit and although otherwise entitled moves his dependents and household effects to other than the home port or home yard of the vessel or mobile unit because of anticipated extended deployment of such vessel or mobile unit, and he is subsequently ordered to a different vessel or mobile unit which has the identical home port or home yard, the Secretaries concerned may authorize the movement of the dependents, baggage, and household effects to the home port or home yard and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section."

(4) The catchline of section 406a and the corresponding item in the analysis are each amended by striking out "and transportation" and inserting in place thereof "transportation, and dislocation" and by amending the text of section 406a by inserting "dislocation allowance under section 407 of this title notwithstanding the requirement prescribed in subsection (b)(1) of that section," after "section 404 of this title,".

(5) Section 407 is amended as follows:

(A) Subsection (a) is amended by (i) striking out "make" and inserting in place thereof "in reliance on orders, make or begin"; (ii) inserting "or prolonged treatment in a hospital," after "change of permanent station"; and (iii) inserting "or 406(i)" after "405a(a)".

(B) Subsection (b) is amended by striking out "or" at the end of clause (2), striking out the period at the end of clause (3) and inserting in place thereof "; or", and adding the following new clause:

"(4) the member is certified, in accordance with regulations prescribed by the Secretary concerned, as requiring prolonged treatment in a hospital."

(6) Section 408 is amended by adding the following new sentence: "In addition to the fixed rate a mile authorized by this section for the use of privately owned vehicles, reimbursement may be allowed for the actual cost of parking fees, ferry fares, and bridge, road, and tunnel tolls."

(7) Section 411(a) is amended by striking out "(d)–(f)" and inserting in place thereof "(d)–(g)".

(8) The last two sentences of section 411(d) are amended to read as follows: "The definition shall include a shore station or the home yard or home port of a vessel or other afloat mobile unit to which a member of a uniformed service who is entitled to basic pay may be ordered. An authorized

change in the home yard or home port of such a vessel or other afloat mobile unit is a change of permanent station."

Mr. BENNETT. Mr. Speaker, H.R. 8021 is a Department of Defense legislative proposal designed to amend title 37, United States Code, to authorize a dislocation allowance under certain circumstances, certain reimbursements, transportation for dependents, and travel and transportation allowances under certain circumstances, and for other purposes.

EXPLANATION OF THE BILL

The bill is essentially an omnibus bill covering five general purposes:

First. It would authorize reimbursement to members of the uniformed services for the actual cost of parking fees, ferry fares, bridge, road and tunnel tolls incurred during official travel, and so forth.

The annual cost of this element of the proposal is estimated at $5,291,000. Funds to cover this cost are included in the fiscal year 1970 budget.

Second. This legislation would also entitle a member of the uniformed services to travel allowances from a temporary duty station to a former permanent duty station, and then to his newly assigned permanent duty station.

Under existing law, a member receiving permanent change of station orders is only entitled to travel performed from his temporary duty station to his new permanent duty station.

Under the provisions of this bill such travel would be authorized. The Department considers the cost of such liberalization as being very modest involving an annual cost of approximately $61,980.

Third. This legislation would also authorize the payment of a dislocation allowance to a member of a uniformed service whose dependents travel prior to the effective date of orders directing a permanent change of station when such orders are later cancelled, revoked, or modified.

The proposed legislation is therefore attempting to correct hardships which result in the case of individual service families who, in proper anticipation of the effectiveness of a permanent change of station order, go forward to relocate in other geographical areas and later find that the orders have been cancelled.

The Department advises:

Any additional cost resulting from the enactment of this part of the proposal would be negligible and would be absorbed in applicable appropriations.

Fourth. This proposed legislation would also provide for the payment of a dislocation allowance for a member of a uniformed service when his dependents make an authorized move in connection with his prolonged treatment in a hospital.

Prolonged treatment is that treatment which is expected to require a minimum of 6 months of time.

The Comptroller General of the United States has ruled that a member is entitled to a dislocation allowance only when dependents move in connection with a permanent change of station, and that an order to proceed to a hospital is not a permanent change of the member's duty station.

The dislocation allowance is an amount equal to the member's basic allowance for quarters for 1 month—section 407, title 37, United States Code.

The Department advises that the estimated annual cost of this element of the proposal is $178,300.

Fifth. The proposed legislation would authorize the transportation of dependents and shipment of household goods to the home port or home yard at Government expense incident to a member's transfer from sea duty to sea duty, when the vessel or other afloat mobile units involved have identical home yards or home ports. This element of the proposal is designed to eliminate a hardship now confronting naval personnel who complete tours of sea duty on one ship or unit, and are subsequently immediately reassigned to another ship or unit home ported at the same geographical location. Under these circumstances the member is not entitled to a transportation allowance for his dependents despite the fact that during his previous tour of sea duty he had elected to permit his family to reside at a location other than the home port of the ship. Thus, he must now either endure the continued separation of his family during his second tour of sea duty, or in the alternative move them to his home port at his own expense.

The Department is of the view that this change in the statute would not result in any substantial increase in the cost to the Government.

SUMMARY

This departmental proposal, H.R. 8021, is identical to H.R. 8375 of the 90th Congress which was reported favorably by the Committee on Armed Services and passed the House on August 7, 1967. Unfortunately, it was not acted on by the other body and died with the termination of the 90th Congress.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING TITLE 37, UNITED STATES CODE, TO AUTHORIZE TRAVEL, TRANSPORTATION, AND EDUCATION ALLOWANCES TO CERTAIN MEMBERS OF THE UNIFORMED SERVICES FOR DEPENDENTS' SCHOOLING

Mr. BENNETT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 8022) to amend title 37, United States Code, to authorize travel transportation, and education allowances to certain members of the uniformed services for dependents' schooling, and for other purposes.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 8022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 7 of title 37, United States Code, is amended as follows:

(1) The following new section is inserted after section 427:

"§ 428. Education, travel and transportation allowances: dependents at permanent station outside United States

"Under regulations prescribed by the Secretaries concerned, which shall be, as far as practicable, uniform for all of the uniformed services, a member of a uniformed service who is on duty outside the United States at a permanent station, and when such benefits are not made available in kind by the United States, is entitled to an education allowance and a travel and transportation allowance, to assist in providing adequate education for his dependents who are authorized to accompany him, as follows:

"(1) An allowance is authorized for elementary and secondary education of not more than the cost of obtaining the elementary and secondary educational services that are ordinarily provided without charge by the public schools in the United States, plus, in those cases where the Secretary concerned has designated the duty station of the member as having inadequate educational facilities, board and room, and periodic transportation between that station and the nearest locality (including where applicable the United States), designated by the Secretaries concerned as having adequate educational facilities; but the amount of the allowance granted shall be determined on the basis of the educational facility used.

"(2) A travel and transportation allowance is authorized to meet the travel expenses of the dependents of a member to and from a school in the United States to obtain an undergraduate college education, not to exceed one round trip each school year for each dependent for the purpose of obtaining such type of education. All or any portion of the travel for which a transportation allowance is authorized by this section will be performed wherever possible by the Military Airlift Command or the Military Sea Transportation Service on a space-required basis. Notwithstanding the area limitations in this section, a travel and transportation allowance for the purpose of obtaining undergraduate college education may be authorized under this clause for dependents of members stationed in the Canal Zone.

"(3) The term 'United States' shall, for the purposes of this section, mean the several States, the District of Columbia, Puerto Rico, and the Canal Zone.

"(4) The words 'permanent station' shall, for the purposes of this section, include the home yard or home port of a vessel to which a member of a uniformed service may be assigned.

"(5) Nothwithstanding section 401(2)(A) of this title, 'dependent' in this section may include an unmarried child over 21 years of age who is in fact dependent and is obtaining undergraduate college education."

(2) The analysis is amended by inserting the following item:

"428. Education, travel, and transportation allowances: dependents at permanent station outside the United States."

SEC. 2. Section 912 of the Internal Revenue Code of 1954 (26 U.S.C. 912) (relating to exemption from taxation for certain allowances) is amended by adding the following new paragraph at the end:

"(4) EDUCATION ALLOWANCE.—In the case of a member of a uniformed service, amounts

received under section 428 of title 37, United States Code."

Mr. BENNETT. Mr. Speaker, H.R. 8022 is a bill which will amend title 37 United States Code, to authorize travel, transportation, and education allowances to members of the uniformed services stationed abroad, for their dependents' schooling.

The provisions of this bill would extend to members of the uniformed services stationed abroad authority to receive allowances for certain expenses incurred in educating their dependents and in transporting them between the member's station and the dependents' school.

With regard to the education allowances, it is a recognized fact that dependents' education can create a major financial and morale problem for uniformed personnel stationed in foreign areas, where there are no local dependents' schools operated by the Department of Defense. Some of our posts are located in Asia, Africa, and the Near East, where the lingual, cultural, and educational standards are very different from our own, and thus where the local schools are not suitable for our children.

At most of these stations there are so few American children that the estabment of a DOD-sponsored dependents' school is not feasible, and parents must send their children to suitable dormitory or tuition-fee schools.

At the present time, approximately 1,527 dependents must attend elementary and secondary dormitory and tuition schools. Tuition assistance in such cases is available under the authority of the annual Department of Defense Appropriations Act. Further, in fiscal year 1969 $524,000 was appropriated to cover room and board fees of elementary and secondary students living in tuition-fee or service operated dormitory schools, and the fiscal year 1970 Department of Defense appropriation request in this area is $526,000.

In addition to continuing this room and board allowance, the present bill would recognize and provide allowances to cover other costs that are incurred when a child must attend a dormitory or tuition fee school. That is, the bill would provide allowances for periodic transportation home when the elementary or secondary school is closed for holidays, and it would provide allowance to cover the additional fees charged by the school, such as library and health fees. Allowances for such periodic transportation and fees are not presently provided to service families. On the other hand, all of these allowances, room and board, periodic transportation and school fees, are presently authorized by 5 U.S.C. 5924(4) for civilian Government employees stationed in foreign areas.

This bill will also provide a transportation allowance of one roundtrip annually for dependents of service members stationed abroad who are obtaining an undergraduate college education at a school in the United States. Travel by Military Airlift Command will be utilized when available. This allowance would be available to the approximately 1,764 dependents who are enrolled full time in a college course of instruction which leads to an associated or baccalaureate degree. This allowance is presently authorized by 5 U.S.C. 5924(4) for civilian Government employees stationed in foreign areas.

The Department of Defense favors this legislation and the Bureau of the Budget has no objection to its passage.

The enactment of this measure will result in an increased annual cost to the Department of Defense of approximately $1,886,000, and as previously mentioned $526,000 of this amount is for room and board allowances and is presently contained in the fiscal year 1970 Department of Defense appropriation request.

You will recall that the Armed Services Committee reported out a similar bill in 1967, H.R. 2082, and it was passed by the House. However, the other body failed to act on it. Further, you will recall that the college student transportation provision was included in this year's procurement authorization bill, but it was deleted during conference.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks, prior to the passage of each one of the four bills.

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

There was no objection.

THIRTEENTH ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-204)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

With this message I am transmitting the Thirteenth Annual Report on the Trade Agreements Program, as required by the Trade Expansion Act of 1962. The report covers the year 1968.

In 1968, free world trade increased by 11.6 percent; U.S. exports increased by 9.6 percent; and U.S. imports rose by 23.7 percent, largely due to the inflationary forces in our economy which stimulated imports and also hampered the competitiveness of our exports.

The Trade Bill of 1969, which I recently submitted to the Congress, will equip us to build on the past gains of the Trade Agreements Program and to move forward toward a new trade program for the 1970s. It will give us the capability to continue to move forward toward freer world trade, defend our own trade interests, and provide constructive adjustment to changes in world trade patterns. The Commission on World Trade, which I am appointing, will examine the complex trade issues that will confront us in the 1970s, and will make recommendations for the U.S. policies needed to deal with them.

This Administration is committed to a freer exchange of goods among nations. We must continue to strive for further growth in mutually advantageous world trade and, in part through such trade, for the eventual dismantling of the barriers that have stood in the way of the freer interchange of people and ideas.

RICHARD NIXON.

THE WHITE HOUSE, *December 16, 1969.*

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

JOHN VINCENT AMIRAULT

The Clerk called the bill (H.R. 2552) for the relief of John Vincent Amirault.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

REFERENCE OF CLAIM OF JESUS J. RODRIGUEZ

The Clerk called House Resolution 86, referring the bill (H.R. 1691) to the Chief Commissioner of the Court of Claims.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

Mr. BOLAND. Mr. Speaker, by direction of the Subcommittee on Claims, I object.

Mr. GROSS and Mr. HUNT objected, and, under the rule, the resolution was recommitted to the Committee on the Judiciary.

AMALIA P. MONTERO

The Clerk called the bill (H.R. 6375) for the relief of Amalia P. Montero.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

VISITACION ENRIQUEZ MAYPA

The Clerk called the bill (H.R. 6389) for the relief of Visitacion Enriquez Maypa.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

YAU MING CHINN (GON MING LOO)

The Clerk called the bill (S. 1438) for the relief of Yau Ming Chinn (Gon Ming Loo).

Mr. GROSS. Mr. Speaker, I as unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

MRS. RUTH BRUNNER

The Clerk called the bill (H.R. 9488) for the relief of Mrs. Ruth Brunner.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

FAVORING THE SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The Clerk called the concurrent resolution (S. Con. Res. 33) favoring the suspension of deportation of certain aliens.

Mr. HUNT. Mr. Speaker, I ask unanimous consent that the concurrent resolution be passed over without prejudice.

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

There was no objection.

MRS. SABINA RIGGI FARINA

The Clerk called the bill (H.R. 3629) for the relief of Mrs. Sabina Riggi Farina.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

PLACIDO VITERBO

The Clerk called the bill (H.R. 3955) for the relief of Placido Viterbo.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

WILLIAM PATRICK MAGEE

The Clerk called the bill (H.R. 9001) for the relief of William Patrick Magee.

There being no objection, the Clerk read the bill as follows:

H.R. 9001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a) (9) of the Immigration and Nationality Act, William Patrick Magee may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM D. PENDER

The Clerk called the bill (S. 901) for the relief of William D. Pender.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

Mr. BOLAND. Mr. Speaker, I object.

Mr. GROSS and Mr. HUNT objected, and, under the rule, the bill was recommitted to the Committee on the Judiciary.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2302) for the relief of Mrs. Rose Thomas.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

Mr. BOLAND. Mr. Speaker, I object.

Mr. GROSS and Mr. HUNT objected, and, under the rule, the bill was recommitted to the Committee on the Judiciary.

CONFERRING JURISDICTION ON CLAIM OF PHILIP J. FICHMAN

The Clerk called the bill (H.R. 10658) conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Philip J. Fichman.

There being no objection, the Clerk read the bill, as follows:

H.R. 10658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statute of limitations pertaining to suits against the United States, or any lapse of time, or bars of laches or any prior judgment of the United States Court of Claims, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment upon any claim of Philip J. Fichman, of Indianapolis, Indiana, for disability retirement pay allegedly due him as the result of certain preexising, nondisabling physical conditions which the said Philip J. Fichman maintains were aggravated while he was serving in the Armed Forces of the United States.

SEC. 2. Suit upon any such claim may be instituted at any time within one year after the date of the enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided herein, proceedings for the determination of such claim, and review and payment of any judgment or judgments thereon shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1491 of title 28 of the United States Code.

With the following committee amendment:

Page 1, line 10, strike "preexising" and insert "preexisting".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAPT. WILLIAM O. HANLE

The Clerk called the bill (S. 882) for the relief of Capt. William O. Hanle.

Mr. HUNT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

Mr. BOLAND. Mr. Speaker, I object.

Mr. HUNT and Mr. GROSS objected, and, under the rule, the bill was recommitted to the Committee on the Judiciary.

REFERENCE OF CLAIMS OF BRANKA MARDESSICH AND SONIA S. SILVANI

The Clerk called House Resolution 498, to refer the bill (H.R. 4498) entitled "A bill for the relief of Branka Mardessich and Sonia S. Silvani" to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code.

Mr. HUNT. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

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

Mr. BOLAND. Mr. Speaker, I object.

Mr. HUNT and Mr. GROSS objected, and, under the rule, the resolution was recommitted to the Committee on the Judiciary.

MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 11500) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

Mr. BOLAND. Mr. Speaker, I object.

Mr. GROSS and Mr. HUNT objected, and, under the rule, the bill was recommitted to the Committee on the Judiciary.

ROSE MINUTILLO

The Clerk called the bill (H.R. 12089) for the relief of Rose Minutillo.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

IRVING M. SOBIN CO., INC., AND/OR IRVING M. SOBIN CHEMICAL CO., INC.

The Clerk called the bill (H.R. 1782) for the relief of Irving M. Sobin Co., Inc., and/or Irving M. Sobin Chemical Co., Inc.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

Mr. BOLAND. Mr. Speaker, I object.

Mr. GROSS and Mr. HUNT objected, and, under the rule, the bill was recommitted to the Committee on the Judiciary.

TIMOTHY L. ANCRUM (ALSO KNOWN AS TIMMIE ROGERS)

The Clerk called the bill (H.R. 3590) for the relief of Timothy L. Ancrum (also known as Timmie Rogers).

Mr. HUNT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentelman from New Jersey?

Mr. BOLAND. Mr. Speaker, I object.

Mr. HUNT and Mr. GROSS objected, and, under the rule, the bill was recommitted to the Committee on the Judiciary.

REFERENCE OF CLAIM OF JOHN S. ATTINELLO

The Clerk called House Resolution 533, to refer the bill (H.R. 3722) entitled "A bill for the relief of John S. Attinello" to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2059 of title 28, United States Code, as amended.

Mr. HUNT. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

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

Mr. BOLAND. Mr. Speaker, I object.

Mr. HUNT and Mr. GROSS objected, and, under the rule, the resolution was recommitted to the Committee on the Judiciary.

MRS. MARJORIE ZUCK

The Clerk called the bill (S. 476) for the relief of Mrs. Marjorie Zuck.

Mr. HUNT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

JACK BROWN

The Clerk called the bill (H.R. 1697) for the relief of Jack Brown.

Mr. HUNT. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

JANIS ZALCMANIS, GERTRUDE JANSONS, LORENA JANSONS MURPHY, AND ASJA PANSONS LIDERS

The Clerk called the bill (H.R. 3530) for the relief of Janis Zalcmanis, Gertrude Jansons, Lorena Jansons Murphy, and Asja Jansons Liders.

Mr. HUNT. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

DR. EMIL BRUNO

The Clerk called the bill (H.R. 4105) for the relief of Dr. Emil Bruno.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

MRS. PEARL C. DAVIS

The Clerk called the bill (H.R. 7264) for the relief of Mrs. Pearl C. Davis.

There being no objection, the Clerk read the bill as follows:

H. R. 7264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of determining the entitlement of Mrs. Pearl C. Davis, of New Haven, Connecticut, to widow's insurance benefits under section 202(e) of the Social Security Act on the basis of the wages and self-employment income of her late husband Alver C. Davis (Social Security Account Numbered 044–12–3912), the said Mrs. Pearl C. Davis shall be deemed to have satisfactorily established her marital relationship with the said Alver C. Davis at the time she first filed application for such benefits in 1954. There shall be paid to the said Mrs. Pearl C. Davis, in a lump sum from the Federal Old-Age and Survivors Insurance Trust Fund, an amount equal to the total of the additional widow's insurance benefits (for the period beginning with the month of April 1955, and ending with the month preceding the first month for which she was entitled to such benefits without regard to this Act) which are payable to her by reason of the preceding sentence.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BURROWES MANUFACTURING CORP.

The Clerk called the bill (H.R. 8100) for the relief of the Burrowes Manufacturing Corp.

There being no objection, the Clerk read the bill as follows:

H.R. 8100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of a claim for credit or refund with respect to the tax imposed by section 4161 of the Internal Revenue Code of 1954 filed by the Burrowes Manufacturing Corporation of Portland, Maine, within the 30-day period which begins on the date of the enactment of this Act, subparagraphs (A) and (B) of section 209(b)(1) of the Excise Tax Reduction Act of 1965 (relating to floor stocks refunds with respect to certain manufacturers excise taxes) shall be applied by substituting the date of the 30th day after the date of the enactment of this Act (1) for "February 10, 1966" in such subparagraph (A), and (2) for "such February 10" in such subparagraph (B).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

QUITCLAIMS TO QUIET TITLE, ARIZONA

The Clerk called the bill (H.R. 7161) for the relief of Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. (Ethel J.) Pensinger, Marion M. Lee, and Arthur N. Lee.

Mr. EDMONDSON. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

QUITCLAIM OF SAND AND GRAVEL—EMOGENE TILMON, LOGAN COUNTY, ARK.

The Clerk called the bill (S. 65) to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and similar materials in certain lands to Emogene Tilmon of Logan County, Ark.

There being no objection, the Clerk read the bill, as follows:

S. 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey by quitclaim deed, without consideration, to Emogene Tilmon the sand, gravel, stone, clay, and similar materials reserved to the United States in a certain tract of 80.07 acres of land, conveyed to her by deed dated September 22, 1960, recorded in Logan County, Arkansas, on October 10, 1960, in Book 52 of Deeds, page 691: *Provided,* That the conveyance authorized by this Act shall change none of the other provisions or conditions of the above cited September 22, 1960, deed from the United States: *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract.

With the following committee amendment:

Page 2, line 2, strike out the following: ": *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract." and insert in lieu thereof a period after the words "United States".

The committee amendment was agreed to.

The 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.

QUITCLAIM OF SAND AND GRAVEL—ENOCH A. LOWDER, LOGAN COUNTY, ARK.

The Clerk called the bill (S. 80) to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and sim-

ilar materials in certain lands to Enoch A. Lowder of Logan County, Ark.

There being no objection, the Clerk read the bill as follows:

S. 80

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey by quitclaim deed, without consideration, to Enoch A. Lowder, the sand, gravel, stone, clay, and similar materials reserved to the United States in a certain tract of forty acres of land, more or less, conveyed to her by deed dated February 5, 1963, recorded in Logan County, Arkansas, on February 23, 1963, in Book 55 of Deeds, page 141: *Provided,* That the conveyance authorized by this Act shall change none of the other provisions or conditions of the above cited February 5, 1963, deed from the United States: *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract.

With the following committee amendment:

Page 2, line 2, strike out the following: ": *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract." and insert in lieu thereof a period after the words "United States".

The committee amendment was agreed to.

The 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.

QUITCLAIM OF SAND AND GRAVEL—J. B. AND SULA SMITH, MAGAZINE, ARK.

The Clerk called the bill (S. 81) to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and similar materials in certain lands to J. B. Smith and Sula E. Smith, of Magazine, Ark.

There being no objection, the Clerk read the bill as follows:

S. 81

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey by quitclaim deed, without consideration, to J. B. Smith and Sula E. Smith, his wife, the sand, gravel, stone, clay, and similar materials reserved to the United States in a certain tract of 52.13 acres of land, more or less, conveyed to them by deed dated November 26, 1962, recorded January 12, 1963, in deed book 55, page 110, Southern District Court House of Logan County, at Booneville, Arkansas: *Provided,* That the conveyance authorized by this Act shall change none of the other provisions or conditions of the above cited November 26, 1962, deed from the United States: *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract.

With the following committee amendment:

Page 2, line 3, strike out the following: ": *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract." and insert in lieu thereof a period after the words "United States".

The committee amendment was agreed to.

The 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.

QUITCLAIM OF SAND AND GRAVEL—WAYNE AND EMOGENE TILMON, LOGAN COUNTY, ARK.

The Clerk called the bill (S. 82) to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and similar materials in certain lands to Wayne Tilmon and Emogene Tilmon, of Logan County, Ark.

There being no objection, the Clerk read the bill as follows:

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall convey by quit claim deed, without consideration, to Wayne Tilmon and Emogene Tilmon, his wife, the sand, gravel, stone, clay and similar materials reserved to the United States in a certain tract of 70.36 acres of land, more or less, conveyed to them by deed dated November 27, 1959, recorded in Logan County, Arkansas, on March 8, 1960, in Book 52 of Deeds, page 556: *Provided,* That the conveyance authorized by this Act shall change none of the other provisions or conditions of the above cited November 27, 1959, deed from the United States: *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract.

With the following committee amendment:

Page 2, line 2, strike out the following: ": *And provided further,* That such sand, gravel, stone, clay, and similar materials shall only be used on said tract." and insert in lieu thereof a period after the words "United States".

The committee amendment was agreed to.

The 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.

TO PERMIT THE VESSEL "MARPOLE" TO BE DOCUMENTED FOR USE IN THE COASTWISE TRADE

The Clerk called the bill (H.R. 1497) to permit the vessel *Marpole* to be documented for use in the coastwise trade.

There being no objection, the Clerk read the bill as follows:

H.R. 1497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), the vessel known as the Marpole, official number CF4754CN, owned by (Mrs.) Jean C. Rowe, 334 25th Street, Santa Monica, California, 90402, area code 213, telephone EX 5-3034, shall be entitled to be documented to engage in the fisheries and the coastwise trade upon compliance with the usual requirements, so long as such vessel is, from the date of enactment of this Act, continuously owned by a citizen of the United States. For the purposes of this Act, the term "citizen of the United States" includes corporations, partnerships, and associations, but only those which are citizens of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GROSS. Mr. Speaker, were not the last six bills on the Private Calendar not eligible for consideration?

The SPEAKER. The Chair is informed that they were.

Mr. GROSS. They were eligible?

The SPEAKER. Yes. That is the information that the Chair has received.

CONFERENCE REPORT ON H.R. 14916, DISTRICT OF COLUMBIA APPROPRIATIONS, 1970

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 14916) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1970, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 15, 1969.)

(Mr. NATCHER asked and was given permission to revise and extend his remarks and to include a tabulation.)

Mr. NATCHER. Mr. Speaker, the conference agreement provides a Federal payment of $104,169,000 to the general fund composed of $99,169,000 plus a special one-time payment of $5,000,000 for law enforcement activities. The House bill provided $107,000,000, including the special one-time payment. The Senate bill provided $109,206,000. The conference agreement is $5,831,000 below the budget estimates; $2,831,000 below the House bill; and $5,037,000 below the Senate bill; but it is $14,804,000 above the 1969 Federal payment, which was $89,365,000.

DISTRICT OF COLUMBIA FUNDS

The conference agreement provides $650,249,600 in District of Columbia appropriated funds. The House bill provided $683,106,300. The Senate bill provided $657,064,600. The conference agreement is $102,694,700 below the budget estimates, $32,856,700 below the House bill, and $6,815,000 below the Senate bill. It is $66,654,212 above the 1969 appropriations and represents an alltime high for the District government.

At this point in the RECORD I will insert a tabulation showing the various stages of the bill by appropriations:

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1970 (H.R. 14916) CONFERENCE SUMMARY

Agency and item	New budget (obligational) authority, fiscal year 1969	Budget estimates of new (obligational) authority, fiscal year 1970	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	Conference action compared with— New budget (obligational) authority, fiscal year 1969	Budget estimates of new (obligational) authority, fiscal year 1970	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Federal payment to the District of Columbia:									
General fund	[1] $89,365,000	[2] $110,000,000	$107,000,000	$109,206,000	$104,169,000	+$14,804,000	−$5,831,000	−$2,831,000	−$5,037,000
Water fund	2,098,000	2,504,000	2,504,000	2,504,000	2,504,000	+406,000			
Sanitary sewage works fund	1,184,000	1,424,000	1,424,000	1,424,000	1,424,000	+240,000			
Total, Federal payment to the District of Columbia	92,647,000	113,928,000	110,928,000	113,134,000	108,097,000	+15,450,000	−5,831,000	−2,831,000	−5,037,000
Laons to the District of Columbia or capital outlay (from the U.S. Treasury):									
General fund	[3] 65,125,000	[4] 111,736,000	74,735,000	57,235,000	57,235,000	−7,890,000	−54,501,000	−17,500,000	
Highway fund	8,000,000	700,000	700,000	700,000	700,000	−7,300,000			
Water fund	1,250,000	170,000	170,000	170,000	170,000	−1,080,000			
Sanitary sewage works fund		2,158,000	2,158,000	2,158,000	2,158,000	+2,158,000			
Total, loan appropriation to District of Columbia	74,375,000	114,764,000	77,763,000	60,263,000	60,263,000	−14,112,000	−54,501,000	−17,500,000	
The Commission on Revision of Criminal Laws of the District of Columbia		150,000		150,000	150,000	+150,000		+150,000	
Grand total, Federal funds	167,022,000	228,842,000	188,691,000	173,547,000	168,510,000	+1,488,000	−60,332,000	−20,181,000	−5,037,000
District of Columbia appropriated funds:									
General operating expenses	[5] (35,405,500)	[6] (44,091,000)	(39,209,000)	(40,471,000)	(38,769,000)	(+3,363,500)	(−5,322,000)	(−440,000)	(−1,702,000)
Public safety	[7] (113,022,000)	[8] (133,899,000)	(130,324,000)	(130,801,000)	(129,556,000)	(+16,534,000)	(−4,343,000)	(−768,000)	(−1,245,000)
Education	[9] (122,607,000)	[10] (149,956,000)	(140,077,000)	(141,250,000)	(140,386,000)	(+17,779,000)	(−9,570,000)	(+309,000)	(−864,000)
Parks and recreation	[11] (17,305,988)	[12] (20,421,000)	(18,337,000)	(17,419,000)	(17,406,000)	(+100,012)	(−3,015,000)	(−931,000)	(−13,000)
Health and welfare	[13] (123,904,000)	[14] (145,383,000)	(137,382,000)	(137,297,000)	(136,234,000)	(+12,330,000)	(−9,149,000)	(−1,148,000)	(−1,063,000)
Highways and traffic	[15] (17,784,000)	[16] (18,486,000)	(18,450,000)	(18,206,000)	(18,450,000)	(+666,000)	(−36,000)		(+244,000)
Sanitary engineering	[17] (31,214,000)	[18] ((34,929,000)	(33,340,000)	(33,101,000)	(32,707,000)	(+1,493,000)	(−2,222,000)	(−633,000)	(−394,000)
Metropolitan Police (additional municipal services, inaugural ceremonies)	(440,000)					(−440,000)			
Personal services, wage-board employees	[19] (3,966,000)	(5,201,300)	(5,201,300)	(5,201,300)	(5,201,300)	(+1,235,300)			
Settlement of claims and suits	[20] (77,900)	[21] (51,000)	(51,000)	(51,000)	(51,000)	(−26,900)			
Total, operating expenses	(465,726,388)	(552,417,300)	(522,371,300)	(523,797,300)	(518,760,300)	(+53,033,912)	(−33,657,000)	(−3,611,000)	(−5,037,000)
Repayment of loans and interest	(8,769,000)	[22] (10,918,000)	(10,807,000)	(10,807,000)	(10,807,000)	(+2,038,000)	(−111,000)		
Capital outlay	[23] (109,100,000)	[24] (189,609,000)	(149,928,000)	(122,460,300)	(120,682,300)	(+11,582,300)	(−68,926,700)	(−29,245,700)	(−1,778,000)
Grand total, District of Columbia appropriated funds	(583,595,388)	(752,944,300)	(683,106,300)	(657,064,600)	(650,249,600)	(+66,654,212)	(−102,694,700)	(−32,856,700)	(−6,815,000)

[1] Includes $10,365,000 in 2d supplemental, 1969 (Public Law 91-47).
[2] Includes $20,000,000 requested in H. Doc. 91-196.
[3] Includes $7,902,000 in supplemental, 1969 (Public Law 90-608).
[4] Includes $18,736,000 requested in H. Doc. 91-50 for fiscal year 1969, and reflects decrease of $515,000 proposed in H. Doc. 91-99 and includes $6,000,000 requested in H. Doc. 91-140.
[5] Includes $1,049,500 in supplemental, 1969 (Public Law 90-608), and $975,000 in 2d supplemental, 1969 (Public Law 91-47). Also includes $1,611,000 for Corporation Counsel appropriated under "Public safety."
[6] Includes $847,000 requested in H. Doc. 91-99.
[7] Includes $68,000 in supplemental, 1969 (Public Law 90-608) and $10,034,000 in 2d supplemental 1969 (Public Law 91-47). Excludes $1,611,000 for Corporation Counsel, now under "General operating expenses."
[8] Includes $10,060,000 requested in H. Doc. 91-99.
[9] Includes $13,931,000 in 2d supplemental, 1969 (Public Law 91-47).
[10] Includes $1,204,000 requested in H. Doc. 91-99.
[11] Includes $322,000 in 2d supplemental, 1969 (Public Law 91-47).
[12] Includes $563,000 requested in H. Doc. 91-99.
[13] Includes $2,548,000 in 2d supplemental, 1969 (Public Law 91-47).
[14] Includes $2,054,000 requested in H. Doc. 91-99 and $2,200,000 requested in H. Doc. 91-140 and $1,369,000 requested in H. Doc. 91-196.
[15] Includes $163,000 in 2d supplemental, 1969 (Public Law 91-47).
[16] Includes $35,000 requested in H. Doc. 91-99.
[17] Includes $479,000 in 2d supplemental, 1969 (Public Law 91-47).
[18] Includes $403,000 requested in H. Doc. 91-99.
[19] Includes $3,179,000 in 2d supplemental, 1969 (Public Law 91-47).
[20] Includes $27,900 in supplemental 1969 (Puolic Law 90-608), and $50,000 in 2d supplemental, 1969 (Public Law 91-47).
[21] Requested in H. Doc. 91-196.
[22] Includes $49,000 requested in H. Doc. 91-140.
[23] Includes $10,590,000 in supplemental, 1969 (Public Law 90-608).
[24] Includes $18,736,000 requested in H. Doc. 91-50 for fiscal year 1969, $8,928,000 requested in H. Doc. 91-99, and $18,275,000 requested in H. Doc. 140, and excludes $2,286,000 requested in H. Doc. 91-196.

PERSONNEL

The conference agreement provides a net total of 40,664 positions. The House bill provided a total of 41,500. The Senate bill provided 40,865, including a personnel freeze on existing positions in the 1970 base. The conferees have agreed to this personnel freeze so as to comply with section 802 of the District of Columbia Revenue Act of 1969.

The Senate allowed 887 new positions over the House allowance. The conference action allows 686 new positions over the House bill. A total of 3,858 new full-time positions is authorized under the terms of the conference agreement. The funding for almost all of the new positions is on a 4-month basis, as proposed by the Senate, due to the late passage of the bill.

GENERAL OPERATING EXPENSES

The conference action eliminates or reduces many of the increases provided by the Senate for the Executive Office including $500,000 proposed for the neighborhood service centers. The increases provided by the Senate for the community development unit, the office of consumer affairs, the Economic Development Committee, coordination of the arts, the planning office, the office of legislative affairs, and the personnel office were dropped by the conferees. The additional positions provided for the budget office were approved. The conferees agreed to allow the Fuson stamp program on a 1-year trial basis with the stipulation that future expenditures should not exceed $50,000 annually. The additional positions for the City Council were eliminated. The Senate allowance for the Human Relations Commission has been reduced in half, which allows 20 new positions for the Commission.

PUBLIC SAFETY

The conference agreement allows 100 additional police cadets which will provide a total of 250 in 1970 as originally requested. Numerous other adjustments have been made in the other activities under this appropriation, including funding of the Offender Rehabilitation project under the Legal Aid Agency.

EDUCATION

The conferees agreed to a number of increases over the House bill for the public schools including additional positions for general administration, early childhood education, summer school and

continuing education, and instructional services. Additional funds granted to the Federal City College and the Washington Technical Institute will not enable any increase in the current enrollments at those institutions.

PARKS AND RECREATION

The conferees agreed substantially with the recommendations of the Senate.

HEALTH AND WELFARE

The conferees agreed to the additional funds allowed by the Senate for District of Columbia General Hospital. The request for these funds arrived too late for consideration by the House. Other increases added by the Senate for the Department of Public Health were reduced generally, as was also true of Department of Public Welfare increases. Additional funds and personnel were allowed to enable District of Columbia Village to convert more beds from immediate to intensive care.

HIGHWAYS AND TRAFFIC

The conference agreement restores the 310 positions eliminated from the Department of Highways and Traffic budget base by the Senate. Fifty-three of these positions relate to operating expense activities and are vital to the day-to-day maintenance of our streets, highways, bridges, and for traffic operations. There are 252 of the positions which are capital outlay positions directly connected with the Department's major construction programs. The freeway impasse is finally broken and these positions will be necessary to enable the freeway system program to get underway. The Department has over $200 million in previously appropriated funds and they are available to fund these positions as well as the contracts for actual construction. I am glad to report that the House position prevailed.

SANITARY ENGINEERING

Numerous downward adjustments were agreed to in these activities. The House did agree to the Senate proposal to accelerate the purchase of compactor truck bodies for trash collection from 3 years to 1 year.

CAPITAL OUTLAY

The House conferees agreed substantially with the reductions proposed by the Senate. Additional reductions were agreed to in conference including the increases allowed by the Senate for educational parks, air-conditioning buildings at District of Columbia General Hospital that are not already air conditioned, and the community street program. The conferees agreed to a reprograming action to fund a preliminary survey for a new District court building.

THE COMMISSION ON THE REVISION OF THE CRIMINAL LAWS OF THE DISTRICT OF COLUMBIA

The conferees agreed to the appropriation of $150,000 for the Commission.

Mr. Speaker, this is a good bill. As I noted earlier it is below both the House and Senate versions of the bill, but it provides a substantial increase over the 1969 appropriations for the operation of the government of our Capital City. I recommend the adoption of the conference report.

Mr. Speaker, at this time I yield to the distinguished gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding. While I think that the Federal Government is appropriating far too much money to the District of Columbia, I am pleasantly surprised by this conference report which indicates that for the first time in many, many years the other body failed to obtain an increase above the extraordinary amount that the House approved. I suppose we can take some solace from the fact that this is apparently one of the best conference reports that we have had in many, many years. I want to thank the gentleman from Kentucky (Mr. NATCHER) and the members of his subcommittee. Although, I say, again, and emphasize that I think we have appropriated far too much money from the Federal Treasury for the District of Columbia.

Mr. NATCHER. Mr. Speaker, I want to thank the gentleman from Iowa for his statement.

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

Mr. NATCHER. Mr. Speaker, at this time I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

I think it is particularly noteworthy, I would say to the gentleman from Kentucky, to read in the morning newspaper an article which stated that the police officers are evidently going to be on the spot unless there is a direct reduction in crime for the District of Columbia.

I know some of this would obviously relate to the committee which authorizes the appropriations, not the Committee on Appropriations which the gentleman from Kentucky (Mr. NATCHER) so ably heads.

I wonder if the gentleman could tell the Members, particularly in light of today's development, the so-called order of the Police Chief, to reduce crime and whether or not in the considered judgment of the gentleman from Kentucky there is an adequate amount in the appropriation bill for police protection in the District of Columbia?

Mr. NATCHER. Mr. Speaker, I want to thank my distinguished friend from Ohio. I would like to say to the gentleman, and the other Members at this time, that we have an authorized police force in the District of Columbia of 5,100 men. In this bill for fiscal year 1970 we have $68,355,000 for the maintenance of the Police Department. This is $71.93 per capita.

There is no city in the United States of America, with the exception of Boston, Mass., Mr. Speaker, that has a larger per capita amount expended on its police department than the District of Columbia.

The article that the gentleman from Ohio read in this morning's paper quoting the concern of the Chief of Police as to the inspectors here in the city of Washington is long overdue. I want the gentleman from Ohio to know that I for one believe that the Chief of Police is correct. This action is long overdue. We have an adequate number of police officers in our Capital City. We have not reduced the Metropolitan Police budget one dime in 10 years. Each year they come in with their requests and we do not reduce them. We have given them everything they have asked for. We believe that the people from the great State of Ohio and from the great State of Kentucky and throughout the United States should have a right to come to our Capital City and walk the streets in peace, and not fear that they will be raped, mugged, and robbed. So I say to the Members of the House at this time, Mr. Speaker, that the action of the Chief of Police is long overdue. If these inspectors do not clear this situation up in their districts, I think the Chief of Police is right—I think they ought to be transferred.

Again I want to thank the gentleman from Ohio for calling this matter to our attention.

With the total amount contained in this bill and with the total amount per capita for the operation of our Capital City Police Department, there is no reason why we should not have better law enforcement.

There are problems such as those we have been discussing and the Department has operated under some adverse conditions but I am definitely of the opinion that we have a good Police Department in our Capital City.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield further?

Mr. NATCHER. I yield further to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I appreciate the gentleman's statement, and I would like to make another point which might be a matter which should come up before the authorizing committee, and not the Committee on Appropriations. A cursory examination indicates that a great amount of the time of the police force in the District of Columbia is spent on special events, and on what might be called non-crime-related duties of an officer.

For example, it is my understanding that approximately 400 policemen in the District of Columbia will be assigned every time the Redskins play a football game, whereas in other cities, take, for example, Chicago, the taxpayers there are not called upon to such a large extent, and that there are certain duties around their football stadium which are performed by private individuals, paid for by the Chicago Bears.

So maybe we are calling upon the police force to handle a great amount of duties which in other cities in the country are performed by the business enterprises or private groups themselves, as well as the local government, and are not reflected in the police costs.

So possibly at the same time the Chief is calling upon this investigation, or putting this order down, I wish he would take a look into how much of the police force money goes for special events that might well be handled by others who do not wear the blue uniform.

Mr. NATCHER. Mr. Speaker, I want to thank the gentleman from Ohio for his statement. In addition to the duties that the gentleman from Ohio has

pointed out, just as a matter of emphasis, the last moratorium demonstration, it cost the city of Washington $689,000.

Now think about it—$689,000 is the cost as a result of the moratorium march to the District of Columbia. That does not include the expenses of the Department of Defense and other departments such as the Department of the Interior for the Park Police and all of the other services that were furnished during that weekend.

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

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

Mr. WALDIE. Mr. Speaker, I too wanted to ask the distinguished chairman of the subcommittee a question relative to Chief Wilson's urging his top police officers starting to do something that they have not been doing apparently, that is, cause crime to decrease, or they would have action taken against them.

Is it the gentleman's understanding that there has been laxity on the part of the local District police force in enforcing the law and in combating the problem of crime in the District?

Mr. NATCHER. I would like to say to the gentleman, as I have said earlier, I am of the opinion that we have a good police department in our Capital City. I think what the Chief of Police had in mind was this—with the total number of officers patrolling the streets, with the amount of money contained in this bill and in every budget down through the years for our Metropolitan Police Department, and with the assistance they are now receiving from the Attorney General and the other Government departments from the standpoint of narcotics and from the standpoint of the crime situation generally—that certainly in those districts where we have most of our crime, the inspectors ought to come up to order—they ought to take a better look.

I think the Chief of Police is right—with all of the services now being furnished in our Capital City and the amount of money and the number of personnel, the inspectors should take a better look into the problem. If these particular men are unable to cope with the situation, I think the Chief of Police is right, he should transfer them.

Mr. WALDIE. Mr. Speaker, I appreciate the gentleman's frank response.

I was concerned when I read the article this morning because I had been led to believe, after listening to the comments from the Attorney General, for one, that the increase of crime in the District was largely the responsibility of the Congress, for their neglect in acting upon his crime package.

It would seem to me at least that this strong criticism by Chief Wilson ascribes the responsibility for the increase in crime to another cause than the Congress. That is a comforting thought, I suppose, that there may be others to share this onerous responsibility.

Although it does strike me as more than passing strange that the District police force, in whom I have had considerable confidence in the past, and I think deservedly so, should be, in my view, castigated by their chief by this reflection upon their ability to have done the job with which they are confronted. I think there has been an aspersion on their abilities cast by their Chief. I think if it is a justified aspersion, it is something I was not aware of—if it is not justified, it seems to me that that would tend greatly to diminish what must be already a low morale in the police department.

Mr. NATCHER. I would say to the gentleman, Mr. Speaker, that the Chief of Police had in mind not that the Metropolitan Police Department generally is not carrying out its duties. He had in mind that these particular inspectors in these particular districts should take a better look.

I say this to the gentleman from California as I have stated earlier—I believe—and I have believed this all down through the years since I have been a Member of the House of Representatives—that we have a good police department in our Capital City and it is one that has operated at times under adverse conditions.

Those in command—the inspectors—and other in command—are the ones the Chief of Police was directing his remarks to.

Mr. WALDIE. I thank the gentleman and I certainly would concur, at least from my own observations of the operation of the District police force.

I would hope that those who do have the authority over the District, however, would ask the Chief to explain further, if he would, what deficiencies did exist at that tremendously important level of command within the Police Department that justified this public chastisement of them.

Mr. NATCHER. I thank the gentleman.

Mr. Speaker, at this time I would yield to my distinguished friend, the gentleman from Wisconsin (Mr. DAVIS), but before yielding I would like to say this to the Members of the House—that one of the nicest things that has happened to me since I have been a Member of the Congress is the privilege of serving with the distinguished gentleman from Wisconsin on this committee.

Mr. Speaker, I now yield to the gentleman.

Mr. DAVIS of Wisconsin. Mr. Speaker, I certainly wish to strongly support the conference report, for the terms of which we are all greatly indebted to the chairman of our subcommittee and the man who served as chairman of the conference, the gentleman from Kentucky. I am not sure that some of my colleagues on this side of the aisle are going to accept his comments about the fine relationships that we have had too favorably because they might think that I am getting a little soft with respect to some of these appropriations. However, the gentleman from Kentucky, a most able negotiator, did accomplish something that has never been accomplished before in my experience with respect to similar conference reports, and that is to bring the report back with a figure below the House and the Senate bills.

In the field of general operations the Senate had exceeded the House bill. So the Senate reductions for the most part came in a reduction of capital outlay.

In pointing out a number of places where increases in general operating expenses were not justified, we were able, as you will note from the conference report, to bring in figures below either the House or the Senate version with respect to general operating expenses and also below either figure basically with respect to capital outlay.

I wish to refer to the major additions. I am sure the gentleman from Iowa, who expressed his displeasure with the growth and the size of the budget here in the District of Columbia, will be interested to know that the major additions to be found in this bill over the budget for the previous year, can be accounted for by the $40 million included for the practical initiation of the construction of the subway, for the crime package, so-called, and increases in facilities for public safety which are included in the conference report, increases for education and welfare and, of course, these latter two items are not unique. The increases are not unique in the District of Columbia. They are the pattern that all of us have to live with in all the communities from which we come.

We had not made reductions in capital outlay for education nearly to the extent that were made by the other body, and the explanation for that is this: A year ago, when we brought this bill to you, we had made substantial reductions in capital outlay in the area of education, because the District government simply did not demonstrate a capability to effectuate that kind of capital outlay program. So this year in our bill we attempted to catch up for the deletions that had been made a year ago.

Over in the other body the concept was accepted there that in this time of retrenchment in the area of public construction of all kinds, a major effort should also be made here in the District of Columbia to bring about a cutback in public works, generally. So we did accept in this conference report that concept, and so that accounts for a figure in the area of capital outlay substantially below that which had been approved in either House.

This is one of the first times it has been a pleasure to bring back a conference report, because all too often we have borne the brunt on this side for making some of the reductions that were not always easy to make, and then having those reductions restored almost fully in the other body. That did not happen this year. This is a conference report that represents good judgment in the light of the overall conditions that exist in the District of Columbia. It provides adequate funding for education, for welfare, and related subjects. It gets the subway system off the ground. It prevents the efforts of some to scuttle an effective highway and street program here within the District.

So I heartily support the conference report, and I would remind my colleagues of the indebtedness each of us does have to the gentleman from Kentucky, who served as chairman of this conference.

Mr. NATCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 1: On page 2, strike out "$107,000,000" and insert "$109,206,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$104,169,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 4: On page 2, line 19, insert the following:

"THE COMMISSION ON REVISION OF CRIMINAL LAWS OF THE DISTRICT OF COLUMBIA

"For expenses necessary to carry out title X of the Act of December 27, 1967 (81 Stat. 742, 743), establishing The Commission on Revision of the Criminal Laws of the District of Columbia, $150,000 to remain available until expended."

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 5: On page 3, line 7, strike out "$39,209,000" and insert "$40,417,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$38,769,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 7: On page 4, line 19, strike out "$130,324,000" and insert "$130,801,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$129,556,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 10: On page 6, line 14, strike out "$18,337,000" and insert "$17,419,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$17,406,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 11: On page 6, line 23, strike out "$137,382,000" and insert "$137,297,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$136,234,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 13: On page 8, line 25, strike out "$33,340,000" and insert "$33,101,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$32,707,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 14: On page 10, line 22, strike out "$149,928,000" and insert "$122,460,300".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the sum proposed insert "$120,682,300".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

Mr. HOLIFIELD. Mr. Speaker, I move to suspend the rules and pass the bill (S. 740) to establish a Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes, as amended.

The Clerk read as follows:

S. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to assure that Federal programs are reaching all Mexican Americans, Puerto Rican Americans, Cuban Americans, and all other Spanish-speaking and Spanish-surnamed Americans and providing the assistance they need, and to seek out new programs that may be necessary to handle problems that are unique to such persons.

SEC. 2. (a) There is hereby established the Cabinet Committee on Opportunities for Spanish-Speaking People (hereinafter referred to as the "Committee").

(b) The Committee shall be composed of—

(1) the Secretary of Agriculture;

(2) the Secretary of Commerce;

(3) the Secretary of Labor;

(4) the Secretary of Health, Education, and Welfare;

(5) the Secretary of Housing and Urban Development;

(6) the Secretary of the Treasury;

(7) the Attorney General;

(8) the Director of the Office of Economic Opportunity;

(9) the Administrator of the Small Business Administration;

(10) the Commissioner of the Equal Employment Opportunity Commission most concerned with the Spanish-speaking and Spanish-surnamed Americans;

(11) the Chairman of the Civil Service Commission; and

(12) the Chairman of the Committee, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are recognized for their knowledge of and familiarity with the special problems and needs of the Spanish speaking.

(c) The Chairman may invite the participation in the activities of the Committee of any executive department or agency not represented on the Committee, when matters of interest to such executive department or agency are under consideration.

(d)(1) The Chairman of the Committee shall not concurrently hold any other office or position of employment with the United

States, but shall serve in a full-time capacity as the chief officer of the Committee.

(2) The Chairman of the Committee shall receive compensation at the rate prescribed for level V of the Executive Schedule by section 5316 of title 5, United States Code.

(3) The Chairman of the Committee shall designate one of the other Committee members to serve as acting Chairman during the absence or disability of the Chairman.

(e) The Committee shall meet at least quarterly during each year.

SEC. 3. (a) The Committee shall have the following functions:

(1) to advise Federal departments and agencies regarding appropriate action to be taken to help assure that Federal programs are providing the assistance needed by Spanish-speaking and Spanish-surnamed Americans; and

(2) to advise Federal departments and agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Spanish-speaking and Spanish-surnamed Americans, and on priorities thereunder.

(b) In carrying out its functions, the Committee may foster such surveys, studies, research, and demonstration and technical assistance projects, establish such relationships with State and local governments and the private sector, and promote such participation of State and local governments and the private sector as may be appropriate to identify and assist in solving the special problems of Spanish-speaking and Spanish-surnamed Americans.

SEC. 4. (a) The Committee is authorized to prescribe rules and regulations as may be necessary to carry out the provisions of this Act.

(b) The Committee shall consult with and coordinate its activities with appropriate Federal departments and agencies and shall utilize the facilities and resources of such departments and agencies to the maximum extent possible in carrying out its functions.

(c) The Committee is authorized in carrying out its functions to enter into agreements with Federal departments and agencies as appropriate.

SEC. 5. The Committee is authorized to request directly from any Federal department or agency any information it deems necessary to carry out its functions under this Act, and to utilize the services and facilities of such department or agency; and each Federal department or agency is authorized to furnish such information, services, and facilities to the Committee upon request of the Chairman to the extent permitted by law and within the limits of available funds.

SEC. 6. (a) The Chairman shall appoint and fix the compensation of such personnel as may be necessary to carry out the functions of the Committee and may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not in excess of the daily equivalent paid for positions under GS–18 of the General Schedule under section 5332 of such title.

(b) Federal departments and agencies, in their discretion, may detail to temporary duty with the Committee such personnel as the Chairman may request for carrying out the functions of the Committee, each such detail to be without loss of seniority, pay, or other employee status.

SEC. 7. (a) There is established an Advisory Council on Spanish-Speaking Americans (hereinafter referred to as the Advisory Council) composed of nine members appointed by the President from among individuals who are representative of the Mexican American, Puerto Rican American, Cuban American, and other elements of the Spanish-speaking and Spanish-surnamed community in the United States. In making such appointments the President shall give due consideration to any recommendations submitted by the Committee.

(b) The Advisory Council shall advise the Committee with respect to such matters as the Chairman of the Committee may request. The President shall designate the Chairman and Vice Chairman of the Advisory Council. The Advisory Council is authorized to—

(1) appoint and fix the compensation of such personnel, and

(2) obtain the services of such experts and consultants in accordance with section 3109 of title 5, at rates for individuals not in excess of the daily equivalent paid for positions under GS–18 of the General Schedule under section 5302 of such title,

as may be necessary to carry out its functions.

(c) Each member of the Advisory Council who is appointed from private life shall receive $100 a day for each day during which he is engaged in the actual performance of his duties as a member of the Council. A member of the Council who is an officer or employee of the Federal Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

SEC. 8. Nothing in this legislation shall be construed to restrict or infringe upon the authority of any Federal department or agency.

SEC. 9. Subchapter III of chapter 73 of title 5, United States Code, shall apply to the employees of the Committee and the employees of the Advisory Council.

SEC. 10. There are hereby authorized to be appropriated for fiscal years 1970 and 1971 such sums as may be necessary to carry out the provisions of this Act, and any funds heretofore and hereafter made available for expenses of the Interagency Committee on Mexican-American Affairs established by the President's memorandum of June 9, 1967, shall be available for the purposes of this Act.

SEC 11. The Committee shall, as soon as practicable, after the end of each fiscal year, submit a report to the President and the Congress of its activities for the preceding year, including in such report any recommendations the Committee deems appropriate to accomplish the purposes of this Act.

SEC. 12. This Act shall expire five years after it becomes effective.

The SPEAKER pro tempore. Is a second demanded?

Mr. ERLENBORN. Mr. Speaker, I demand a second.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GROSS. Is the gentleman opposed to the bill?

Mr. ERLENBORN. Mr. Speaker, I am not.

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. The gentleman from Iowa qualifies. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California will be recognized for 20 minutes, and the gentleman from Iowa will be recognized for 20 minutes.

Mr. HOLIFIELD. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, S. 740 will establish a Cabinet Committee on Opportunities for Spanish-Speaking People. Similar bills were originally introduced in both the House and Senate and proposed to give statutory basis to the existing Inter-Agency Committee on Mexican American Affairs set up in the previous administration and continued in existence by President Nixon. The House bills were introduced by Congressman ED ROYBAL, of California, and a number of other Members.

The urgency surrounding this legislation is that, unless this bill is passed, the Inter-Agency Committee will no longer be able to receive appropriated funds. The independent offices appropriation bill passed in the 90th Congress prohibited further funding of interagency committees. The Mexican American Committee was given until the end of fiscal 1969; but, inasmuch as the fiscal 1970 appropriation bill has not yet been passed, it is still benefiting from continuing resolutions. However, we are told, it cannot extend beyond December 31 on its present basis.

The committee was established by President Johnson in a memorandum dated June 9, 1967, and was then composed of the Secretaries of Labor, Health, Education, and Welfare, Agriculture, and Housing and Urban Development, the Director of OEO, and one of the Commissioners of the Equal Employment Opportunity Commission, who was designated as Chairman. The President defined the committee's purpose as to: Assure that Federal programs are reaching the Mexican Americans and providing the assistance they need; and seek out new programs that may be necessary to handle problems that are unique to the Mexican American community.

The Senate, in passing S. 740, broadened the coverage to include Puerto Rican-Americans, Cuban-Americans and "all other Spanish-speaking and Spanish-surnamed Americans" and added to the membership of the committee additional Cabinet and agency officials. The chairman is to serve in a full-time capacity and not hold any other Federal position. The chairman is given the power to appoint and fix the compensation of personnel under the normal civil service wage levels.

The bill gives the committee the following functions:

First, to advise Federal departments and agencies regarding appropriate action to be taken to help assure that Federal programs are providing the assistance needed by Spanish-speaking and Spanish-surnamed Americans; and

Second, to advise Federal departments and agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Spanish-speaking and Spanish-surnamed Americans, and on priorities thereunder.

An Advisory Council on Spanish-Speaking Americans, to be appointed by the President, is also created to advise the Committee.

The bill authorizes the appropriation of such sums as may be needed to carry out the provisions of the act and transfers to the Cabinet Committee any funds

available to the existing Inter-Agency Committee on Mexican-American Affairs.

Our committee proposed amendments which would have these effects on the bill:

First, to eliminate the power given in section 2(b)13, on page 2, to the President and to the Chairman of the Committee to appoint other Federal officers to the Committee to serve at the pleasure of the person making the appointment. This was an open-ended grant of authority which did not seem wise. We substituted for it authority on the part of the Chairman to invite the participation of other departments and agencies when matters of interest to them are under consideration.

Second, to eliminate "travel time" as a measure of compensation for $100 per day members of the Advisory Council. To be paid for travel time is unusual and could lead to abuses.

Third, to make certain that employees of the Cabinet Committee and the Advisory Council would be covered by the Hatch Act and thereby prevented from engaging in any partisan political activities. If any official of the Commission or Advisory Council participates in partisan politics, using their official or appointive position as an adjunct to their activity, I will personally oppose any fiscal year 1970 appropriation.

Fourth, to extend the authorization to both fiscal years 1970 and 1971—section 9—to make certain that the authorization would meet the appropriation requirements of both the new and old Committees. We also inserted the word "hereafter" with reference to funds made available to make certain that the new Committee could receive by transfer all of the funds of the old Committee and therefore avoid the necessity to go back over the entire appropriation process.

Fifth, to limit the legislation to 5 years. In setting the time limit for this Committee at 5 years, I want to express my frank opinion that the problem we face may not be solved in that time period. However, it is a reasonable time during which the people who administer this program can establish a record of accomplishment for any extension which a future Congress may decide to make.

Also, I wish to point out that section 11, on page 7, requires an annual report to the President and the Congress of its activities for each preceding year. Of course, the annual justification of funds must be made to the Government Operations Committee and the House Appropriations Committee in future years beyond this present authorization.

Mr. Speaker, some concern has been expressed that possible actions of this Cabinet Committee may have an adverse effect on some segments of American labor. The congressional intent and the purpose of this bill is to build up the vocational skills and the educational levels of that segment of American citizens and legal residents who are of the Spanish-speaking group. Such improvement in capability shall not be used to depress the wage level of other segments of our society, but shall be used to increase their opportunities so that they can share more abundantly in our normal American standard of living.

I might say that during our hearings we were presented some startling statistics on the unusual service and casualties in Vietnam of our Spanish-surnamed members of the armed services. These figures will be given to you by Congressman ROYBAL in his remarks to follow.

This legislation serves a worthy purpose and will help focus the attention of the Federal Establishment on a problem too long neglected. Our large minority of Spanish-speaking and Spanish-surnamed Americans deserves no less from their Government.

Mr. Speaker, this bill was reported from our committee with an overwhelming vote. It is a bipartisan effort and the product of bipartisan cooperation. I hope it will be acted upon in the same way by the House.

Mr. GROSS. Mr. Speaker, I yield myself 6 minutes.

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, as I understand it, there has been some kind of a committee, dealing with this subject, in operation since about 1967. What has been accomplished and how much money has been spent since that committee has been in existence?

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

Mr. GROSS. Yes. I yield to the gentleman.

Mr. ROYBAL. I am somewhat familiar with the progress made by this committee. In the field of employment, particularly under civil service, there has been a tremendous increase in the amount of Spanish-speaking personnel hired by the Federal Government.

In the Post Office Department alone 60 times more Spanish-speaking personnel have been appointed in the last 2 years than in the previous 120 years.

So if one looks at the figure of employment alone, one finds that a great deal of progress has been made in this area.

Mr. GROSS. Well, I suppose that could be said for other racial groups—that their numbers in the Post Office Department and other employment in Government has also increased but without spending a half million dollars to do it. I do not know. I am asking the question.

Mr. ROYBAL. Mr. Speaker, if the gentleman will yield further——

Mr. GROSS. Yes.

Mr. ROYBAL. I think the gentleman is mistaken in his assumption. While it is true that the personnel has increased in all of civil service employment insofar as ratios and percentages are concerned, the Spanish-speaking people only in the last few years have been the recipients of these benefits.

Mr. GROSS. Well, what are we starting here with a Cabinet Committee on Opportunities for Spanish-Speaking People? Why not a Cabinet Committee for Polish-Speaking People? What about a Cabinet Committee on Opportunities for Scandinavians—for Danes and Swedes, and for Germans?

Are we about to spread this thing out all over the map? I understand we are embarking upon the teaching of Swahili in this country. Will we have a Cabinet Committee on Opportunities for Swahili-Speaking People before we get through? Why this Cabinet Committee—and how many members will be on this Cabinet Committee?

Mr. ROYBAL. There will be seven.

Mr. GROSS. Seven on the Cabinet Committee and nine on the Advisory Council, both of them financed by the Federal Government. That is real empire building.

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

Mr. GROSS. I yield to the gentleman from California.

Mr. WIGGINS. I wish to reply only to those remarks made by the gentleman from Iowa with respect to why a Cabinet Committee for the Spanish-Speaking Americans and not for the Polish-Speaking Americans, Scandinavians, and the like.

I have some personal familiarity with the problems of Spanish-speaking Americans, and there are very many in my district.

I will say to the gentleman that the problem is unique because these people are not bilingual. Spanish is their only language and as such they do not have the advantages of other hyphenated Americans.

Mr. GROSS. Can they not learn English?

Mr. WIGGINS. I certainly think they have the capability.

Mr. GROSS. Are they going to teach languages under this program or is it to promote basket weaving or what?

Mr. WIGGINS. I am sure the gentleman from Iowa can understand that it is much more difficult for a person who does not speak English and who does not understand English to take advantage of the programs that are organized and arranged for those who do speak English. This is designed to help get these people introduced into these programs just as American-speaking individuals are participating in these programs. This is what this is for.

Mr. GROSS. We are getting a new Cabinet committee established in this country, it seems to me, every day. Must we have a Cabinet committee to provide opportunities for Spanish-speaking people?

Mr. STEIGER of Arizona. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

I think the question which the gentleman has asked is a valid one. But I would simply point out that in terms of population and need the people isolated by a language barrier, the Spanish-speaking people in this country, have proven themselves to be the most needy. We have gone on record for at least a decade here to aid minorities at the Fed-

eral level but here is a minority that has been virtually ignored, a minority whose needs in many instances exceed the minorities that have been helped by law.

This is an attempt to bring in line the Federal efforts to focus particular attention upon the Spanish-speaking communities where the need is very, very great.

Mr. GROSS. What about the need of all the others?

Mr. STEIGER of Arizona. I would point out that the needs of others is mitigated by the fact that they are more diversified than anybody that is cared for in either their own communities or the English-speaking communities that surround them; these are isolated.

Mr. GROSS. The gentleman from Arizona is beginning to sound like one of these bureaucrats running the poverty program.

Mr. STEIGER of Arizona. I was afraid the gentleman would notice that.

Mr. GROSS. What about the poverty program? They are in every welfare field known to mankind. What about the opportunities provided by the poverty program?

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman has expired.

Mr. GROSS. Mr. Speaker, I yield myself 3 additional minutes.

Mr. STEIGER of Arizona. Mr. Speaker, if the gentleman will yield further, I share the skepticism of the gentleman about the merits of some of the Federal efforts to date. However, I would point out that in terms of simple equity, if we are going to attempt to solve the problems of a minority, then we must attempt to solve the problems of all minorities, and we must not have a situation where we have a favorite minority, if you will. This is an attempt to recognize that problem and nothing more. It is not going to be a funnel through which vast new amounts of money are to be funded.

Mr. GROSS. It is unbelievable with the billions we are spewing out on social and welfare programs in this country that any real segment of the population is neglected. I am surprised that there is a rock down in the southwest part of the country that has not been turned over so that they could find another place to plant some money. This, in my opinion, is just another attempt to establish an expensive administrative setup and increase the Federal payroll.

How much do you suppose this will cost? What kind of empire building is this? Already we are spending money to send do-gooders down to Chile and Argentina to teach them basket weaving. Maybe some of your Navajo Indians have been on that kick. I do not know. We sent an American dancer down to Mexico to teach those people how to do the Mexican hat dance. They have forgotten more about the Mexican hat dance in Mexico than any dancer in the United States will ever know.

Mr. STEIGER of Arizona. I would remind the gentleman in the well——

Mr. GROSS. What are we up to in this business? Who dreamed up this Cabinet committee and his advisory council? This is just an effort to spend some more of the poor old taxpayers' money to take care of some people who are allegedly downtrodden, at the same time spewing out billions of dollars through assorted welfare programs. I am surprised that there is a rock that has not been turned over to find a place to plant some more of welfare money.

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

Mr. GROSS. I would like to yield to the gentleman from Texas. I know how the gentleman is bound to feel, coming from that part of the poverty stricken Southwest, but I would like to hear from a possible opponent of this program.

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

Mr. GROSS. I yield to the gentleman.

Mr. PUCINSKI. Mr. Speaker, I wonder if my very distinguished colleague from Iowa would reconsider the use of the words like "supposedly downtrodden," because this is really the forgotten minority in America.

Let me just tell the gentleman one thing, and I think he will support this legislation if he knew one thing——

The SPEAKER. The time of the gentleman has again expired.

Mr. GROSS. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, the gentleman from Illinois is way out in left field if the gentleman thinks I am going to support this bureaucracy-building legislation.

Now I will yield to the gentleman from Texas. I thought perhaps I could find a supporter somewhere. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Speaker, I want to mention some things to the gentleman from Iowa.

In the first place, we are trying to save the taxpayers money through eventually having this group become an active part of the business area.

Mr. GROSS. I have heard that record played around here from the beginning of time, that we are going to lift somebody up by their bootstraps. When do we let somebody lift themselves up by their own bootstraps?

Mr. WHITE. This is not only the second largest minority group in the United States, but I would judge it is one of the most patriotic minority groups.

Mr. GROSS. I do not want to pick and choose between them on that basis. They are all patriotic as far as I am concerned.

Mr. WHITE. But there are more Congressional Medal of Honor winners in this group than in any other group in this country.

Mr. GROSS. You know, I was surprised to read in the report, and I believe it is on page 4, that there are pockets of poverty and deprivation in the Southwest far worse than any suffered by other citizens of the United States.

You are from Texas, from the wonderful oil rich State of Texas. How can there be all these pockets of poverty there that demand we create a brand new bureaucracy, and direct that bureaucracy in Washington to come down and bail you out? What has happened in this great oil rich State of Texas that you have the worst pockets of poverty?

Mr. WHITE. No—we admit our problems and we are trying to address ourselves directly to them at every opportunity—and that is, on the cultural and language barriers. We are advised from Mexican Americans in my district and in many other areas that the reaction of the Spanish-speaking people in every single one of these pockets of poverty is that this will help to give these people direction and opportunities for employment.

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

Mr. GROSS. I am glad to yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Speaker, I thank the gentleman for yielding.

I want to join in opposition to this legislation and point out to the gentleman and to the House section 6 of the bill:

> The Chairman shall appoint and fix the compensation of such personnel as may be necessary to carry out the functions of the Committee and may obtain the services of experts and consultants—

And as to the compensation:

> not in excess of the daily equivalent paid for positions under GS–18 of the General Schedule

That is the highest position.

Further, section 6 says:

> Federal departments and agencies, in their discretion, may detail to temporary duty with the Committee such personnel as the Chairman may request for carrying out the functions of the Committee,

In this time when we have cutbacks and RIF's throughout the Federal agencies—if there are departments and agencies with surplus personnel they are able to detail to this Cabinet commission, without the Congress knowing specifically the limits of the required personnel—as we are authorizing here, then I think our Post Office and Civil Service Committee ought to take a look to see who is detailed and what their primary functions are.

Mr. GROSS. I thank the gentleman from North Carolina. I know how he has been trying to hold down the high cost of employment in the Federal Government, and I commend him.

Did the gentleman from North Carolina mention the $36,000 a year that the chairman of this Cabinet committee is to get?

Mr. HENDERSON. The gentleman did not mention that.

But more importantly, I would say that every department and agency has people on their payrolls attempting to assist Spanish-speaking people with regard to employment. The statement was made about the increase in the Post Office Department. We know that the Post Office Department has personnel that are doing nothing but helping minority groups.

Mr. GROSS. The gentleman is exactly right.

Mr. HENDERSON. Yet, here we are asked to rubberstamp a Cabinet-level committee which has already been put into effect by an Executive order.

Mr. GROSS. What about the Equal Opportunities Commission and all the rest of the commissions and boards upon which millions are being spent each year

to do what it is claimed this outfit will do?

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

Mr. GROSS. I yield to the gentleman.

Mr. HOLIFIELD. In response to the previous colloquy that has just been heard by the House, section 6 departs from the ordinary fee for consultants, which is, throughout the Government, at least $100 a day, and puts it under GS–18 level of wages.

Mr. GROSS. I am glad to have the gentleman admit your program is loaded up with supergrades in this activity. I do not know what the committee is going to do.

Mr. HOLIFIELD. This has to comply with the requirements of the civil service, and the provision in the bill has to comply with the manpower requirements and they cannot load it up. It had to do with the rate that is paid to the consultants. The appropriation would not be large enough to allow the use of many consultants.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. GROSS. Mr. Speaker, I yield myself 2 additional minutes so that I can get from the gentleman from Illinois an indication that he is going to propose for the Polish-speaking people all over the country a Cabinet committee. Is the gentleman prepared to set up another Cabinet committee for Polish-speaking people?

Mr. PUCINSKI. If the gentleman will yield to someone who does not always agree with him—but very often does agree with him.

Mr. GROSS. It will be the day when you very often agree with me.

Mr. PUCINSKI. I think the gentleman is very badly misinformed on this particular legislation.

Mr. GROSS. I am sure the gentleman would think that.

Mr. PUCINSKI. Would the gentleman listen for a moment?

Mr. GROSS. There is no doubt of that.

Mr. PUCINSKI. Would the gentleman yield for a second?

Mr. GROSS. What is there for this particular group of people in this bill?

Mr. PUCINSKI. The Latin American people and the Spanish-speaking people are the only group that almost never ask for a handout. They suffer their indignities and they are exploited. They work hard and they do not ask for handouts. I think we ought to help them in this bill.

Mr. GROSS. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I would like to assure the gentleman that my confrontations with him in the future will be held to the absolute minimum. I thank the gentleman for his courtesy.

Mr. GROSS. I thank the gentleman.

Mr. HOLIFIELD. Mr. Speaker, I yield to my colleague, the gentleman from California (Mr. ROYBAL).

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I rise in support of S. 740, to establish a Cabinet Committee on Opportunities for Spanish-Speaking People, as a permanent statutory agency. It would be a major contribution toward achieving the goals of increased jobs, better housing, improved health care, and wider educational opportunities for members of the Spanish-speaking community.

In 1960, Mexican Americans comprised 12 percent of the total population in the five Southwestern States. Although this group is the second largest minority group in the United States, it is the largest minority in each of these States. Of Spanish-surname California families living in California in urban areas, 17.5 percent made less than $3,000 a year in 1959.

Mexican Americans comprise 13.8 percent of the 19 to 26 age male population in the Southwest, yet the University of California numbers just over 1½ percent Mexican Americans in the total student population. This can be traced to the school dropout rate, which, for Mexican-American children is over twice the national average.

I believe that it is obvious that most Mexican Americans are not sharing in the fruits of our society. They must be brought into the mainstream of our society, sharing in the economic, social, and educational benefits.

This bill, establishing a Cabinet Committee on Opportunities for Spanish-Speaking People, will do much to meet the growing requirements of this important segment of our population.

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

Mr. ROYBAL. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. I also wish to indicate my support for this needed legislation.

Mr. ROYBAL. Mr. Speaker, I rise in support of Senate bill 740, not only because I believe it is necessary but also because I firmly believe that this House should recognize the problems and needs of the Spanish-speaking people in the United States. President Johnson established the Committee after coming to the conclusion that Federal programs were not reaching the Spanish-speaking people. The President of the United States determined that the vast employment resources of this Nation were actually not being made available to the Spanish-speaking people of our Nation.

Yet, as we look at statistics, we find that the problem that weighs most heavily on the Spanish-speaking people in the United States is the problem of poverty, unemployment, and underemployment. These Spanish-speaking Americans that live in poverty are not the recipients of the benefits intended for them under the Poverty Act. At the present time, as has been the case for generations, they are at the bottom of the totem pole. In the field of education they have the highest dropout rate of any group. They are ill-housed and ill-fed, and have a lot to be desired insofar as health facilities are concerned. Their morality rate is high and suffer from every social ill attributed to the condition of poverty under which they are forced to live.

I would like to discuss briefly conditions in the field of employment in private industry as well as civil service in which Mexican Americans are always the last to be hired. For example, in utilities, only 1.1 percent of those employed are Spanish speaking. The same thing could also be said with regard to our great defense industry, in which our Government spends millions and millions of dollars every year.

Statistics tell us that in the field of civil service fewer than 3 percent of all civil service employees have Spanish surnames. May I point out to the House that the people who will be benefiting by this legislation are not foreigners to this land, content to learn to dance the dance of a foreign country as has been suggested. They are Americans who can trace their ancestry here in the United States to a time before the Pilgrims landed on Plymouth Rock. And they are Americans who have come from every Latin American country to enrich the culture of our Nation. As we look at the culture of this country, we can safely say that they have made a tremendous contribution. Wherever we go through the Southwest and through this land we find their influence. Cities, States, mountains, and valleys have Spanish names, as well as the giants of industry that helped make their country the greatest in the world.

Mr. Speaker, may I also point to the fact that the American soldier of Spanish descent has established a tremendous record in the military service. I would like to place in the RECORD the following statistics that have been made available by reliable sources:

For example, from the State of Arizona the casualties of Spanish-speaking people in Vietnam alone were 23.3 percent; their percentage in Government employment is 8.9 percent.

From the State of California, the percentage of casualties among Spanish-speaking people is 14.8 percent; the corresponding percentage on Government jobs is 9.9 percent.

From Colorado, the percentage of casualties in Vietnam is 19.1 percent; Government jobs, 9.9 percent.

From the State of New Mexico, 39.4 percent of the casualties from that State have Spanish surnames, and still their civil service employment is in the neighborhood of 21 percent.

In the State of Texas, 25.2 percent of all American soldiers killed in Vietnam have Spanish surnames with Government jobs at only 15.1 percent.

Statistics point to the fact that Spanish-surnamed Americans do respond when their Government needs them.

That they are law-abiding Americans who have not resorted to riot and civil disobedience and need just a little help to enable them to lift themselves from their present status of poverty and neglect. As the original sponsor of this legislation in the House, I urge an overwhelming vote on the legislation before us.

Mr. HOLIFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, this bill which provides for the creation of a

Cabinet Committee on Opportunities for Spanish-Speaking People came before our Subcommittee on Executive and Legislative Reorganization. First I want to congratulate and thank the gentleman from California (Mr. HOLIFIELD) for the work he did to handle this expeditiously after it had been referred to the wrong committee. We had to act hastily to bring this to the floor in a timely fashion, so that the committee could get the statutory authority it needed.

In the testimony we had before our subcommittee, I was impressed with the job this committee or its predecessor has already done. I would like to point out the Interagency Committee on Mexican-American Affairs, which is the existing agency and will be the predecessor to this proposed Cabinet Committee on Opportunities for Spanish-Speaking People, was created by Executive memorandum by President Lyndon Johnson. It was continued in this administration. The first request for statutory authority for this committee was prepared and submitted by the last administration, and the request that is now before us is a request by this, the Nixon administration, for the statutory authority that is needed.

Unless we do act in a timely fashion and enact this law prior to December 31, any authority for the existing committee or the proposed new committee will expire and no funds will be available.

We had testimony before our committee as to the work that the Inter-Agency Cabinet Committee can do to coordinate the efforts of the Federal Government. This is not a new program. It is not a program for any special privileges for the Spanish-speaking peoples, but merely an opportunity at the Federal level to coordinate the existing resources and programs that are available.

It was pointed out, and I think we should take cognizance of the fact, that the Spanish speaking were the first to come to this country, and they have resisted assimilation into the culture of this country—that is, a complete assimilation—and they maintain their own life style and culture. I think this is healthy.

As a result of this, however, many of them are Spanish speaking and are not bilingual. Many are living in poverty and have not been given the opportunity to utilize the programs that have been made available to other minorities.

Mr. Speaker, I support this bill and hope that it will enjoy overwhelming support on the floor of this House today.

Mr. HOLIFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Speaker, I rise in support of this legislation.

The purpose of creating a Cabinet Committee on Opportunities for Spanish-Speaking People is to increase economic opportunities for almost 10 million Spanish-speaking and Spanish-surnamed Americans who live in both our urban centers and rural areas.

Many Spanish-speaking people live along the eastern seaboard. For example, in New York City it is estimated that there are more than 1 million Puerto Rican inhabitants.

In 1960 the number of Puerto Ricans in New York City comprised 8 percent of the population; at the same time, this 8 percent of the population comprised 18 percent of the New Yorkers living in poverty. The 1960 census revealed that at that time Puerto Rican unemployment in New York was 9.7 percent; general unemployment was at a rate of 4.4 percent.

According to the New York State Division of Human Rights, in 1969 the median family income in New York City was $6,684, but the median family income for Puerto Rican families in New York was only $3,839.

The disparity is clear, and the need for action to close the gap is compelling.

A similarly grim picture can be seen in the southwestern part of the United States where 6½ million of our Spanish-speaking Americans live in the States of Arizona, California, Colorado, New Mexico, and Texas; and 80 percent work in unskilled or semiskilled employment. Almost 50 percent of their families earn incomes below the $3,200 poverty line. And few finish an eighth grade education.

In 1967 President Johnson established an Interagency Committee on Mexican-American Affairs to deal with the problems of Spanish-speaking Americans of Mexican descent.

S. 740 would expand this concept by changing the committee's name and purpose so that it could deal with the problems of all Spanish-speaking Americans.

The Cabinet committee would advise Federal agencies and departments regarding appropriate action to be taken to assure that Spanish-speaking and Spanish-surnamed Americans are able to take advantage of programs open to them. In addition, this committee would advise Federal agencies and departments about comprehensive and coordinated policies and programs focusing on the special needs and problems of the Spanish-speaking American.

Immediate attention should be given to the under representation of Spanish-surnamed citizens in the Federal civil service. According to a study of minority group employment in the Federal Government by the U.S. Civil Service Commission, as of June 1966, only 2.6 percent of the Federal employees had Spanish surnames; and that 2.6 percent was concentrated in the lower grade levels.

As an example of the dismal performance by Federal agencies in employing Spanish-surnamed Americans, let me cite some statistics pertaining to the Social Security Administration.

The Social Security Administration headquarters employs 17,289 persons, of whom 43 have Spanish surnames; and they are in the lower grade levels.

In New York City, where 12½ percent of the population is Spanish speaking, there is only one Spanish-speaking field representative.

In California, out of 92 employees in five district offices, not one has a Spanish surname. The offices are in Los Angeles, where the Spanish-speaking population is 10.5 percent; Salinas, where the Spanish-speaking population is 12.1 percent; in San Bernadino, where the Spanish-speaking population is 17.9 percent; San Jose, where the Spanish-speaking population is 14 percent; and Santa Barbara, where the Spanish-speaking population is 14.7 percent.

To compound the failure, the very office in the Social Security Administration which is charged under the Executive order with the responsibility for affirmative action to increase and improve employment opportunities for minority groups—the Equal Employment Opportunity office—has exactly one Spanish-surnamed employee.

I favor the creation of the proposed Cabinet committee, and I urge that it give prompt attention to discrimination within the Federal Government. Federal agencies, such as the Social Security Administration, should be required to take immediate action to staff field offices serving Spanish-speaking communities with Spanish-speaking employees; have Spanish-surnamed representation on all Equal Employment Opportunity staffs; to carry out aggressively the Executive order so that promotion opportunities are opened up for Spanish-surnamed employees.

I was a sponsor of the Bilingual Education Act which is aimed at overcoming the language barrier which is a major obstacle to employment. The Cabinet committee should seek to make that act more effective as an instrument in opening up job opportunities for Spanish-speaking people.

I urge the House to pass this bill. This is supposed to be a nation of liberty and justice for all. If we allow the minorities of this Nation—the black Americans, the Spanish-speaking Americans, and the American Indians—to continue to live in poverty and inequality, then we are not fulfilling the credo set down in the Declaration of Independence.

This bill should be a step toward the equality and justice that our Spanish-speaking Americans deserve, but do not have.

Mr. HOLIFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I rise in support of S. 740, which is in its general effect the same as H.R. 8416, of which I am one of the coauthors. Our bill would have given the sanction of legislation to the existing Interagency Committee on Mexican-American Affairs. The bill we are considering, which has already passed the Senate, would accomplish the same end, but would change the name of the agency to the Cabinet Committee on Opportunities for the Spanish-Speaking people.

The purpose of this legislation is to assure this Nation that the special needs of its second largest minority group are given the attention they deserve. My district is one of those with a large concentration of these Americans of Latin American heritage. Official census reports show 40.6 percent of the residents of my district have Spanish surnames. El Paso, in my district, is the largest city on the Mexican border; and it adjoins Ciudad Juarez, Mexico, that country's largest border city.

The contribution made by American citizens of Spanish-speaking heritage is a great and historic one. These people first crossed the Rio Grande into what is now my district in 1598, 9 years before the landing at Jamestown, and 22 years before the Pilgrims landed at Provincetown and Plymouth.

Through the centuries, these people have been a part of our communities, and since my State became a part of the United States of America, they have been fine and useful citizens of our country.

With gratitude and admiration we look upon the great number of their young men who served the cause of freedom in the two world wars, in Korea, and Vietnam. Their names on the casualty lists, and among the Medal of Honor winners, have proved their loyalty to their adopted country beyond question.

Their contributions to our life and language have enriched us greatly, and those who have been successfully assimilated into the mainstreams of our society have succeeded brillantly, providing leadership in almost every field of endeavor.

But, the barriers of language and customs are great. It is necessary that we list our failures, as well as our success, in the assimilation of our citizens, from Mexico and other Latin American nations, who have chosen the United States as a land of opportunity, the best place on earth to make their homes.

In the five Southwestern States, Mexican Americans, age 14 and older, have an average of only 8.1 years of schooling, compared with 12 years for the average Anglo-American. In 1966, Mexican Americans in southwestern cities had an unemployment rate of 8 to 13 percent, compared to a national average of 4 percent for that year. The number of high school dropouts among young Americans of Mexican descent is more than twice the national average.

These statistics are reflected in low incomes, inadequate housing, broken homes, and all the social ills that accompany such conditions.

We are trying to do something about this situation. In my first term in Congress, I introduced legislation to provide that one member of the Equal Employment Opportunity Commission should represent the special needs of our citizens of Latin American descent. The purpose of this legislation was largely achieved by Executive action in 1967, when President Johnson created the Cabinet-level Interagency Committee on Mexican American Affairs, and made the Chairman of that committee a member of the Equal Employment Opportunity Commission.

President Johnson called for the committee to meet with Mexican Americans, survey their needs, review their problems, and see how the Federal Government can best work with State and local government and with private industry, and with the people themselves, in solving the problem.

The conference requested was held in my home city, El Paso, in October 1967. It was highly successful. It enabled the various departments of government to gear their services toward the special needs of our Spanish-American heritage citizens. Manpower development and training, bilingual education, low-rent housing, Neighborhood Youth Corps, Project Upward Bound, and a great many other ongoing programs have been geared to the special opportunities of understanding and utilizing the human resources of this major minority group.

Our need, Mr. Chairman, is to be sure that this Cabinet-level Committee, created only by Executive order, continues by legislative mandate. The program has already proved its worth. We should look upon it, not as an obligation toward any racial group, but as an opportunity to work with and for a large and vital segment of our society in the developing of better and more useful citizens.

I hope the House will give these American citizens new hope, and new opportunities by approving S. 740 today.

As a Member of Congress, and with the cooperation of my fellow Congressmen, I have been able to sponsor considerable legislation, and support much more, which will improve the opportunities of our citizens of Latin American heritage. Here are some of the more important of those measures.

First. I was author of the bill under which President Johnson proclaimed "Lulac Week" in February 1968, honoring the work of the League of United Latin-American Citizens.

Second. I intervened with the Department of Health, Education, and Welfare to prevent a planned reduction of funds for the bilingual education program. As a result, the reduction is being reconsidered.

Third. To perpetuate improved relations with our neighbors in Mexico, I was the author of legislation which established the Chamizal National Memorial, and the Chamizal Memorial Highway.

Fourth. Knowing that education offers the great avenue of opportunity for our citizens of Latin American origin, I have been among those who supported maximum authorization and appropriations for special programs for minority groups, bilingual education, student loans, and work-study programs for our colleges, and special vocational training programs.

Fifth. I supported the Housing and Urban Development Act of 1968, under which 1,650 units of low-rent housing have been authorized for low income areas of El Paso. The communities of Alpine, Balmorhea, Pecos, Grand Falls, Marfa, and Wink, in my district are benefiting from similar programs I assisted on. I am working with the city of El Paso and its housing authority to develop still other housing programs for the area where concentrations of our Mexican-American citizens make their homes.

Sixth. I invited other border congressmen to join me in cosponsorship of a bill to give permanent status to the United States-Mexico Commission on Border Development and Friendship, created by Executive order of President Johnson. The present administration did not see fit to extend this Commission as an independent unit.

Seventh. I am the author of legislation which designated the Tiwa Indians of Ysleta, in my district, as a tribe, thereby qualifying them for benefits from the State of Texas.

Eighth. I supported manpower development and training legislation, under which hundreds of Latin Americans have been successfully trained for better paying jobs. Recent additions to this program are now training more than 300 persons.

Ninth. I supported legislation to extend the provisions of the minimum wage laws. This brought pay increases to thousands of Mexican Americans.

Tenth. I supported necessary legislation and worked to secure grants, for neighborhood centers health units, parks and playgrounds in low-income areas of my district.

This is an incomplete list, Mr. Speaker, but I believe it should establish the fact that efforts are being made, every day, to increase the opportunities for American citizens of Latin American heritage to share more of the benefits of living in a land dedicated to principles of equal opportunities for all.

Mr. GROSS. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Speaker, I should like to direct a question or two either to the gentleman from California (Mr. HOLIFIELD) or to his colleague (Mr. ROYBAL).

I would preface this by saying I have an earnest desire to help the people who are on the subject of this bill. I want also to prevent, as far as possible, a continued frustration of the needy people of this country through promises which cannot be fulfilled. Therefore I should like to ask a question of either of these gentlemen.

In the 2 years we have had the Mexican-American Commission what has been accomplished, or in what direction has the group moved to achieve some purpose?

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

Mr. KYL. I yield to the gentleman from California.

Mr. ROYBAL. Several accomplishments have been made, particularly in the poverty program.

At the time this agency was established the poverty program was not reaching the Spanish-speaking people. Through the aid and the help of the Committee, the poverty program started to get into the Spanish-speaking communities of the United States. Where they were deficient particularly was in the preparation of proposals. By the time the proposals were prepared it was already too late. This Committee actually did help in that regard.

Mr. KYL. Will the gentleman permit me to interject?

Last week we had the poverty program on the floor, and those who favored that program indicated that there were not such shortcomings of this kind, which the gentleman described, and that therefore we should simply fund the program for 2 additional years.

There is a problem I have in a situation like this, and I am sure the gentleman understands it. Instead of trying to correct the program which exists, and

which continues to cost money, we simply let it go as it is and add another layer on top.

Mr. ROYBAL. One way of correcting such a problem would be to make it available to all Americans. This is exactly what this would do.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. GROSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am surprised to hear the report of the gentleman from Texas of such serious deficiencies in education. It is almost unbelievable that a State as prosperous and as rich as Texas has such a shabby educational record. It is hard for me to believe this. I do not want to believe it.

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

Mr. GROSS. I yield to the gentleman from Texas.

Mr. WHITE. This is precisely what we are talking about. With these Spanish-speaking people there is a language barrier. One can have a fine educational system, but if the people are frustrated in the use of language or do not understand the English language, there will be dropouts.

Mr. GROSS. It seems to me the gentleman stated that once before, but I do not find it a very good answer for creation of more layers of fat on the bureaucracy in Washington to achieve this end.

What has happened in the Equal Opportunities Commission and the poverty program that they have not gotten any attention?

What is sought to be done here is to add another layer of fat. If this passes, I will be tempted to introduce a bill to create a Cabinet Committee for the American Indians. They have been more long-suffering than the Spanish speaking.

Mr. WHITE. Will the gentleman yield?

Mr. GROSS. Yes. I yield to the gentleman.

Mr. WHITE. The name of this is "interagency." The objective of this organization, among others, is to coordinate various programs.

Mr. GROSS. In other words, to create another layer of bureaucratic blubber in Washington in order to get more people to perform duties that you are already paying high salaries to be performed.

Mr. WHITE. No. What the interagency is trying to do is to bring attention to this problem and allow these people to grasp the opportunities and to understand the realities of them.

Mr. GROSS. What are all of these programs supposed to do?

Mr. WHITE. That is a part of it. They have had success in some areas. They have had success in a number of areas, such as equal employment opportunities. We can show you figures on it.

Mr. GROSS. But you have to have more bureaucratic fat down here. Is that it?

Mr. WHITE. What we are trying to do is solve a problem with this agency, which is merely a coordinating agency, among others. It will help to reduce the number of dropouts and the undereducated.

Mr. GROSS. From reading the bill and the report I do not know what this new outfit is going to do or where it will be involved.

Mr. Speaker, I hope that this bill is defeated. It simply builds the bureaucratic empire in Washington, D.C.

Mr. HOLIFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Speaker, it has been my privilege for a number of years to have known many Spanish-speaking individuals. I find them to be proud, religious, ambitious, and also disadvantaged. They are disadvantaged by language, by schools, and by employment, and in business. Their leadership potential is great, however. They catch up, and they want to catch up now. I believe this bill will help them. Neither I nor they find very much solace in those who find humor in this bill. I support this bill and hope this House will do so as well. It is not going to cure all of the dropouts or do all of the things that the poverty program was aimed at doing. It is not designed to correct discrimination, but rather to get a device in the hands of the people to provide for leadership and to provide a means for these Americans to catch up and to find out what the Federal programs are, whether they are in the fields of education, business or labor. This bill is designed to give these Americans special assistance in catching up with the rest of the people in the country. I strongly support the bill.

Mr. HOLIFIELD. Mr. Speaker, this bill has been endorsed by two administrations. It comes out of our committee unanimously. We have looked into this matter very carefully. This is not to set up programs to spend additional money. This is to help those people who are underprivileged in a certain language group to participate in these programs which we have already set up. These people, many of them, do not speak our language. They do not know how to qualify for educational opportunities, for vocational training, and that sort of thing. They need Spanish-speaking guides to explain the availability of these programs. This bill will not set up additional programs. This is to make more efficient the programs that we have already authorized in this Congress.

Now, Mr. Speaker, I have lived among these people most of my life. These people are gentle and kindly and are a religious-type people. These people err on the side of gentility and timidness if they err at all. They are not the type of people who go out and burn down buildings and break windows and do that sort of thing. They suffer in silence. I say to you that we owe to these people an effort costing far more than this paltry $500,000 in order to bring them into the programs that we have already arranged for their benefit. I say to you that we owe to these people some encouragement for their refusal to resort to violence to obtain what they need. And, I can assure you that these people are in need of this kind of help. Therefore, I hope every Member in this House will vote for this bill.

Mr. MINISH. Mr. Speaker, I rise in support of S. 740, a bill to establish the Cabinet Committee on Opportunities for Spanish-Speaking People. The committee will replace the now existing Interagency Committee on Mexican-American Affairs.

This legislation is designed to insure that Federal programs are reaching and providing necessary assistance for the 10 million Puerto Rican, Mexican, Cuban, and other Spanish-speaking and Spanish-surnamed Americans. In addition, the legislation provides for the development of new programs to meet the critical needs of Spanish Americans.

The Cabinet Committee will be composed of the Secretaries of the following seven departments: Agriculture, Commerce, Health, Education, and Welfare, Housing and Urban Development, Labor, Treasury, and Justice. The Director of the Office of Economic Opportunity, the Administrator of the Small Business Administration, the Chairman of the Civil Service Commission, and a Commissioner of the Equal Employment Opportunity Commission will round out the Committee's membership. A full-time chairman is to be appointed by the President and confirmed by the Senate.

The measure before us also provides for the establishment of an Advisory Council on Spanish-Speaking Americans to be composed of nine members appointed by the President to represent the various Spanish-American groups. The Council will be available to advise the Cabinet Committee with respect to such matters as the committee chairman may request.

Mr. Speaker, New Jersey has been enriched by our residents of Puerto Rican descent. These Americans, with their industry, vitality, and pride, have contributed vastly to the quality of our national life. Unfortunately this group, together with other Spanish Americans, often has been the victim of inattention and neglect resulting in their exclusion from the mainstream of American life. The establishment of the Cabinet Committee on Opportunities for Spanish-Speaking People provides a recognition on the highest level of the serious problems of these citizens.

Mr. LEGGETT. Mr. Speaker, I support Senate bill 740, to establish the Cabinet Committee on Opportunities for Spanish-Speaking People.

I will keep my remarks brief but I wish to assure the Members that I strongly support this measure. Our efforts in the area of assisting the Spanish-speaking citizens of the United States have been small in comparison to the needs which these citizens face.

For far too many years many citizens of this country failed to see the special problems faced by this segment of our population. Many of us failed to see the problems because we did not understand the cultural differences that existed. Many others realized that there were differences and thought that because there were differences, they had nothing in common.

In recent years, due in a substantial

degree to the efforts of this Congress, all Americans have begun to realize that there are citizens of this country that have special needs. The Congress has established a number of very fine programs that are aimed at meeting the needs that are unique to Spanish-speaking and Spanish-surnamed Americans.

These programs, while being aimed at individual needs of this group of citizens, have not been coordinated to such a degree that they provided a total program. I believe that this bill will do a great deal to develop these separate efforts into a coordinated and total effort on the part of the Federal Government.

This does not mean that I believe that this bill will immediately cure all the problems facing the Mexican-American community in my district or elsewhere. This would be an absurdity. There can be no real progress in solving these special problems until those persons in the Mexican-American community desire to take the action necessary.

All we can do in Congress is to recognize the needs of this segment of American citizens and offer them the means to help themselves. This bill will do much to make the opportunities available to them more meaningful and more easily accessible.

The Mexican-American population of my district is a proud and determined group of individuals. They have every right to be proud of their heritage and their culture. They also have every right to expect that their elected representatives understand their needs and aspirations and make every possible effort to help them fulfill these goals.

In my district, there are a number of Mexican-American associations that have done a lot to assist their people. They do not want others to do what they can do well enough themselves. Gentlemen, they need only our assistance to give them the opportunity to help themselves.

This bill is not just a reaction to a need; it is a needed reaction to a just cause. It is needed and it is written so as to allow those facing the problems to also solve them.

I can assure you that the Mexican-American citizens of California fully support this bill. I would be remiss in my duties as their Representative if I did not urge this committee to immediately approve this bill.

Mr. CRAMER. Mr. Speaker, creation of a Cabinet Committee on Opportunities for Spanish-Speaking People comes as long overdue recognition of the needs of one of America's largest minorities. People with Spanish backgrounds have brought a rich heritage to our Nation, and particularly to my home State of Florida.

I wholeheartedly support this new program to assure that Federal programs are reaching all Mexican Americans, Puerto Rican Americans, Cuban Americans and others of our Spanish-speaking and Spanish-surnamed citizens.

Florida was founded by the Spanish; the city of St. Augustine is the oldest settlement in the Nation; Tampa has long been known for its large and vibrant Cuban-American colony, and in recent years Greater Miami has successfully assimilated more than 250,000 Cubans fleeing the Communist tyranny of their homeland.

Spanish-speaking Americans have made outstanding contributions to our Nation. Yet many of them, because of language and cultural differences, have had difficulty in becoming part of the mainstream of American life.

Americans of Spanish heritage have proved a law-abiding minority—and perhaps, for this reason, we have been slow in recognizing their needs. Since they have not burned and rioted to draw attention to their problems, some have interpreted this as contentment for their lot.

Yet precisely because they have been such good citizens, willing to work without complaint for their share of the bounties of America, we must do everything to insure they receive the benefits they have earned.

In the past I have been proud to support legislation improving the lot of Spanish-speaking Americans. I have been particularly proud to welcome freedom-loving Cubans to my State and Nation. And I have strongly supported immigration legislation allowing them to make a new life here.

They have earned all the support we can give them.

Mr. MATSUNAGA. Mr. Speaker, as a cosponsor of H.R. 9330, a bill the basic purpose of which is to assure that Federal programs reach all Spanish Americans and provide the assistance they need, and to seek out new programs that may be necessary to handle problems that are unique to the Spanish-American community, I rise in support of a similar Senate-passed measure, S. 740, to establish a Cabinet Committee on Opportunities for Spanish-Speaking People.

The Cabinet committee would replace the present Inter-Agency Committee on Mexican-American Affairs, established by former President Lyndon B. Johnson on June 9, 1967, and will be composed of seven department heads, two agency heads, a Commissioner of the Equal Employment Opportunity Commission and a Chairman—all to be appointed by the President. The committee would operate within the $510,000 appropriated to the Inter-Agency Committee.

S. 740, which is supported by the present administration, reaffirms this Nation's interest in and concern for the problems of the more than 10 million Spanish-speaking and Spanish-surnamed Americans—the second largest minority group in America.

Although considerable progress has been made in recent years to improve the quality of life for members of all minority races, little has actually been done to alleviate the special problems of Spanish-speaking Americans.

The seriousness of the problem is indicated by statistics. Of the approximately 10 million Spanish-speaking and Spanish-surnamed Americans in this country, nearly 80 percent of them work in unskilled or semiskilled jobs; nearly 50 percent of them fall below the poverty line of $3,200 annual income; most of them barely complete the 8th grade and many are functionally illiterate; and they own less than 1 percent of the businesses in the United States.

In this achievement-oriented society of ours, there is nothing of greater value to a man than an education and the opportunity to earn a good livelihood in order to obtain a bit of life's luxuries for himself and his family. S. 740 is designed to improve the social and economic plight of the Spanish-speaking Americans by helping to extend the promise of educational and economic opportunity, which is inherent in our system of democracy and which we cherish so highly, to this small but important segment of the American community now lacking that opportunity.

Mr. Speaker, it is our responsibility to build on the hopeful beginning that was provided by the establishment of the Inter-Agency Committee on Mexican American Affairs. The time has come for us to bring the promise of America to this group of Americans who have had such an important influence of the development of our country.

Let us now expand the 1967 promise into reality by approving the creation of a Cabinet Committee on Opportunities for Spanish-Speaking Americans in order that these millions may be given the opportunity to share in the American dream.

I shall never forget the words of former President Johnson when he spoke of the uncomprehending pain in the eyes of the Mexican-American schoolchildren he saw confronted with poverty and intolerance. I recall his description of these little Mexican-American children whom he taught as a young man:

> Somehow you never forget what poverty and hatred can do when you see its scars on the hopeful faces of a young child. It never even occurred to me in my fondest dreams that I might have the chance to help the sons and daughters of those students and to help people like them all over this country. But now I do have that chance.

And we too have that chance today, a chance I am proud to share, of reaffirming our faith in America and its people by the passage of the legislation we are considering. Ya es Tiempo. It is time. I strongly urge a unanimous vote on S. 740.

Mr. FARBSTEIN. Mr. Speaker, it has been for many years and, I hope will continue to be, my distinct privilege and honor to represent a large portion of the Puerto Rican people residing in New York City.

Because of my sincere and abiding interest in their well-being and success, and my admiration for their progressive spirit and hardworking character, I am pleased to join my colleagues in supporting the bill to establish a Cabinet Committee on Opportunities for Spanish-Speaking People, S. 740. This legislation expands the purview of the existing interagency Committee on Mexican-American Affairs, created by the previous administration, to include among its beneficiaries all the Spanish-speaking peoples in the land. The purpose of this Committee is to make existing Federal programs more relevant to the needs of Spanish-speaking Americans and to

bring those programs that are relevant to the residents of Spanish-speaking communities.

In my district, on the lower East Side of Manhattan, there exists a large Puerto Rican community afflicted by the problems not only of poverty, but of cultural and language differences, which denies them a chance of equal opportunity in the economic struggle for survival. I know of situations where Spanish-speaking young men who were endeavoring to better their economic situation have been denied employment for which they were amply qualified because of their lack of orientation to the mores of the local-born American.

There are many Americans beset by poverty today, and all are deserving of the Government's attention. But the Spanish-speaking people require a special agency to handle their side of the problem, because their difficulties are different and need to be treated differently.

According to 1960 Department of Commerce figures, 53 percent of the Puerto Rican adults residing in New York City, 25 years and older, have less than eighth-grade education. The current educational program unfortunately does not alter the situation to any appreciable extent. The Coleman Report on Equality of Educational Opportunity, published 3 years ago by the U.S. Office of Education, reveals that Puerto Rican children in the New York City public schools are lagging considerably behind all other children, white and black, in verbal ability, reading comprehension, and understanding of mathematics. There is a significant level of illiteracy not only with respect to English, but Spanish as well.

The failure to provide proper programs for the Puerto Rican children of New York City is not merely a social crime but an economic crime, as well. If the failure continues, New York City will soon be swarming with additional thousands of uneducated, unemployed persons without hope of success. No city can stand such pressures. No country can stand such pressures.

It is my sincere hope that with the establishment of this committee, the Federal Government will make more available the type and kind of educational program which will facilitate the opportunity for learning among young Puerto Ricans—basic literacy and high school equivalency programs, for example, and programs to increase their opportunities for employment.

A recent amendment to the Economic Development Act that is being called the "Farbstein amendment," I expect will provide job opportunities for the Puerto Ricans in my district. This amendment to the Economic Development Act, when implemented, will provide grants and loans for public works that will attract jobs available for Spanish-speaking people of the Lower East Side. I hope the committee will make its first order of business the implementation of this new provision.

I applaud S. 740—a bill to establish the Cabinet Committee on Opportunities for Spanish-Speaking People—and urge its adoption.

Mr. RAILSBACK. Mr. Speaker, I believe that the bill S. 740 to establish a Cabinet Committee on Opportunities for Spanish-Speaking People is a worthwhile replacement of the present Interagency Committee on Mexican-American Affairs. The old committee expires at the close of this year and the new committee can carry on the important functions of stimulating and coordinating the existing governmental efforts and programs designed to assist the country's second largest minority group. The legislation is a welcome reaffirmation of the Federal Government's interest in and concern about the approximately 10 million Spanish-speaking and Spanish-surnamed Americans in the country.

This legislation is by no means intended as fulfillment of the entire responsibility of the Government toward this proud and law-abiding minority. For much too long, this Nation has failed to recognize the very special problems faced by this segment of our population. These citizens are gentle, kind, timid, and deeply religious. They do not demonstrate in the streets, burn down buildings, and break windows. They suffer in silence, often frustrated at their lot, but always striving toward self-help. In my congressional district there are several active Mexican-American organizations that have done much to help their own people. They do not ask that others do what they themselves can do. They ask only for assistance in giving them opportunities to help themselves.

The proud heritage of these Americans, many of whom can trace their ancestry as resident Americans far earlier than the landing of the Pilgrims, is deserving of a better fate. There is no doubt that, in the past, there may have been inattention and even neglect of this group of our citizens. Of the members of this sizable segment of our population, nearly 80 percent work in unskilled or semiskilled jobs; nearly 50 percent fall below the poverty line of $3,200 annual income; most of them barely complete the eighth grade, and language barriers render many to be classified as functionally illiterate. This group of almost 5 percent of the population owns less than 1 percent of the businesses in the United States.

The bill which we have before us does not purport to solve all the problems of these people, but it does specifically have two purposes, namely: First, to advise Federal departments and agencies regarding appropriate action to be taken to help assure that Federal programs are providing the assistance needed by Spanish-speaking and Spanish-surnamed Americans and, second, to advise Federal departments and agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Spanish-speaking and Spanish-surnamed Americans, and on priorities thereunder.

In recent years, Congress has established a number of programs aimed at meeting needs unique to Spanish-speaking and Spanish-surnamed Americans. These programs have suffered from a lack of coordination and total effort. New programs are needed, new directions should be undertaken. But coordination of efforts into a total Federal program is imperative, and it is my hope that this legislation can effectively provide that coordination.

GENERAL LEAVE TO EXTEND

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore (Mr. ALBERT). The question is on the motion of the gentleman from California that the House suspend the rules and pass the bill S. 740, as amended.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 316, nays 81, answered "present"—2, not voting 34, as follows:

[Roll No. 327]

YEAS—316

Adair	Clawson, Del	Garmatz
Adams	Cleveland	Gaydos
Addabbo	Cohelan	Giaimo
Albert	Collier	Gibbons
Anderson, Calif.	Collins	Gilbert
	Conable	Goldwater
Anderson, Ill.	Conte	Gray
Andrews, Ala.	Corbett	Green, Oreg.
Andrews, N. Dak.	Corman	Green, Pa.
	Coughlin	Griffiths
Annunzio	Cowger	Grover
Arends	Cramer	Gubser
Ashley	Culver	Gude
Aspinall	Daddario	Halpern
Barrett	Daniels, N.J.	Hamilton
Beall, Md.	Davis, Ga.	Hanley
Bell, Calif.	de la Garza	Hansen, Idaho
Bennett	Delaney	Harrington
Berry	Dellenback	Harsha
Betts	Dent	Harvey
Biaggi	Derwinski	Hastings
Biester	Dickinson	Hathaway
Bingham	Diggs	Hawkins
Blanton	Dingell	Hays
Boggs	Donohue	Hechler, W. Va.
Boland	Dulski	Heckler, Mass.
Brademas	Dwyer	Helstoski
Brasco	Eckhardt	Hicks
Brinkley	Edmondson	Hogan
Brock	Eilberg	Holifield
Broomfield	Erlenborn	Horton
Brotzman	Esch	Hosmer
Brown, Calif.	Eshleman	Howard
Brown, Mich.	Evans, Colo.	Hungate
Brown, Ohio	Fallon	Hunt
Broyhill, N.C.	Farbstein	Hutchinson
Broyhill, Va.	Feighan	Jacobs
Buchanan	Findley	Johnson, Calif.
Burke, Mass.	Fish	Jones, Ala.
Burleson, Tex.	Fisher	Jones, Tenn.
Burton, Calif.	Flood	Karth
Burton, Utah	Flowers	Kastenmeier
Bush	Ford, Gerald R.	Kazen
Button	Ford, William D.	Kee
Byrne, Pa.		Keith
Byrnes, Wis.	Foreman	Kleppe
Camp	Fraser	Kluczynski
Carey	Frelinghuysen	Koch
Carter	Frey	Kyros
Casey	Friedel	Landgrebe
Cederberg	Fulton, Pa.	Latta
Chamberlain	Fulton, Tenn.	Leggett
Chappell	Fuqua	Lloyd
Chisholm	Gallagher	Lowenstein
Clausen, Don H.		Lujan

McCarthy	Pickle	Smith, N.Y.
McClory	Pike	Stafford
McCloskey	Pirnie	Staggers
McClure	Podell	Stanton
McCulloch	Poff	Steiger, Ariz.
McDade	Pollock	Steiger, Wis.
McDonald, Mich.	Preyer, N.C.	Stephens
	Price, Ill.	Stratton
McEwen	Price, Tex.	Stubblefield
McKneally	Pryor, Ark.	Stuckey
Macdonald, Mass.	Pucinski	Symington
	Quie	Taft
MacGregor	Railsback	Talcott
Madden	Randall	Teague, Calif.
Mahon	Rees	Teague, Tex.
Mailliard	Reid, Ill.	Thompson, Ga.
Mann	Reid, N.Y.	Thompson, N.J.
Mathias	Reifel	Thomson, Wis.
Matsunaga	Reuss	Tiernan
May	Rhodes	Udall
Mayne	Riegle	Ullman
Meeds	Robison	Utt
Melcher	Rodino	Vander Jagt
Meskill	Roe	Vanik
Michel	Rogers, Colo.	Waldie
Mikva	Rogers, Fla.	Wampler
Miller, Calif.	Rooney, N.Y.	Watson
Miller, Ohio	Rooney, Pa.	Watts
Minish	Rosenthal	Weicker
Mink	Rostenkowski	Whalen
Minshall	Roth	White
Mollohan	Roudebush	Whitehurst
Moorhead	Roybal	Whitten
Morgan	Ruppe	Widnall
Morse	Ruth	Wiggins
Morton	Ryan	Williams
Mosher	St Germain	Wilson, Bob
Murphy, Ill.	St. Onge	Wilson, Charles H.
Murphy, N.Y.	Sandman	
Myers	Saylor	Winn
Natcher	Schadeberg	Wold
Nelsen	Scheuer	Wolff
Nichols	Schwengel	Wyatt
Nix	Scott	Wydler
Obey	Sebelius	Wylie
Olsen	Shipley	Wyman
O'Neill, Mass.	Shriver	Yates
Ottinger	Sikes	Yatron
Patten	Sisk	Young
Pepper	Skubitz	Zablocki
Perkins	Slack	Zion
Pettis	Smith, Calif.	Zwach
Philbin	Smith, Iowa	

NAYS—81

Abernethy	Edwards, La.	McMillan
Alexander	Flynt	Marsh
Ashbrook	Fountain	Mills
Ayres	Galifianakis	Mize
Baring	Gettys	Monagan
Belcher	Gonzalez	Montgomery
Bevill	Goodling	Nedzi
Blackburn	Griffin	O'Hara
Bow	Gross	O'Konski
Bray	Hagan	O'Neal, Ga.
Burke, Fla.	Haley	Poage
Burlison, Mo.	Hammer-schmidt	Purcell
Cabell		Quillen
Caffery	Henderson	Rarick
Clancy	Hull	Roberts
Clark	Ichord	Satterfield
Colmer	Jarman	Scherle
Crane	Johnson, Pa.	Schneebeli
Daniel, Va.	Jonas	Snyder
Davis, Wis.	Jones, N.C.	Springer
Denney	King	Sullivan
Dennis	Kyl	Taylor
Devine	Landrum	Vigorito
Dorn	Langen	Waggonner
Dowdy	Lennon	Watkins
Downing	Long, La.	Wright
Duncan	Long, Md.	
Edwards, Ala.	Lukens	

ANSWERED "PRESENT"—2

Clay	Stokes

NOT VOTING—34

Abbitt	Evins, Tenn.	Mizell
Anderson, Tenn.	Fascell	Moss
	Foley	Passman
Blatnik	Hall	Patman
Bolling	Hanna	Pelly
Brooks	Hansen, Wash.	Powell
Cahill	Hébert	Rivers
Celler	Kirwan	Steed
Conyers	Kuykendall	Tunney
Cunningham	Lipscomb	Van Deerlin
Dawson	McFall	Whalley
Edwards, Calif.	Martin	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Hall.
Mr. McFall with Mr. Cunningham.
Mr. Hanna with Mr. Lipscomb.
Mr. Foley with Mr. Pelly.
Mr. Brooks with Mr. Kuykendall.
Mr. Celler with Mr. Cahill.
Mr. Tunney with Mr. Whalley.
Mr. Abbitt with Mr. Mizell.
Mr. Rivers with Mr. Martin.
Mr. Anderson of Tennessee with Mr Steed.
Mr. Edwards of California with Mr. Dawson.
Mr. Passman with Mr. Fascell.
Mr. Evins of Tennessee with Mr. Patman.
Mrs. Hansen of Washington with Mr. Kirwan.
Mr. Moss with Mr. Blatnik.
Mr. Van Deerlin with Mr. Powell.

Mr. WAMPLER changed his vote from "nay" to "yea."

Messrs. JARMAN, FOUNTAIN, and LONG of Maryland changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

House Resolution 741 was laid on the table.

THE TRICK-BAG

Mr. GONZALEZ. Mr. Speaker, in approving S. 740, to create a Cabinet-level Committee on Opportunities for the Spanish-speaking, the majority of the House has given its sanction to a trick-bag. Rather than approve specific programs for meeting the special needs of this minority group, rather than enact legislation to meet the more general needs of the Southwest, where most of these people live, rather than study the problems for itself, rather than seek action that is meaningful, the majority has settled for a token, a false hope, a vague promise. It will be recognized for what it is—in Spanish we say, "dar atole con el dedo" which in English translates, "feeding soup with your finger." You get enough to taste, but not enough to satisfy hunger. That is what this bill does; it promises a taste but affords no real satisfaction.

The first chairman of the Inter-Agency Committee on Mexican Affairs, which is the same group that is sanctioned by this bill, resigned, and he said that his resignation was caused as much by disgust as anything else. He said that he had been unable to convince the "establishment" that Mexican Americans are real. At about the same time, a liberal journal called the committee a "stepchild" agency that had "no real authority" and that President Nixon had ignored.

The first chairman of the committee noted a few days ago that he had experienced vast difficulty in getting his committee members to give meaningful support to the work of the committee. The fact was that the mandate of the committee was vague, and it had no power to compel agencies to act on whatever recommendations it might offer.

That is the committee that has been given legal sanction today. This bill provides no substantive program; all it does is create a committee to research, to study, and to advise. It has no powers to act, and none to compel action. Nor have we given any mandate to the Executive to act. What we have done in effect is to create an illusion and we are calling that help.

It is not for nothing that black Americans have never asked for a committee of this kind. They have seen the true picture, and know the difference between real power and the granting of sops. Should the Spanish surnamed be satisfied with a third-rate Bureau of Indian Affairs? Should they expect real help from a small, unknown, powerless agency? It may well be that this agency will in fact imprison hope and freeze into permanence the injustices that afflict the Spanish surnamed. They will be told, "tell your troubles to the Inter-Agency Committee." But that committee cannot legislate, and it cannot compel agencies to act to resolve problems; it cannot deliver on promises made and forgotten; it can only listen. A sympathetic ear alone will not heal the economic ills of the Southwest and of the border, nor will it ease the uncounted ills of the Spanish surnamed.

The fact is that a committee of this kind can probably do nothing that would not have been done anyway. It has been in the past, and will probably be in the future a fine agent for political gamesmanship, and it can serve endlessly as a press agent for a politically astute administration. But when it comes down to hard reality, the politics of the grand gesture are as empty today as they were a hundred years ago. And that is what the majority has given today—a grand gesture of the Spanish surnamed, and given nothing that will really help.

APPOINTMENT OF CONFEREES ON H.R. 4293, EXPORT EXPANSION AND REGULATION ACT OF 1969

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4293) to provide for continuation of authority for regulation of exports, with a House amendment to the Senate amendment thereto, insist on the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. PATMAN, BARRETT, Mrs. SULLIVAN, Messrs. REUSS, WIDNALL, MIZE, and BROWN of Michigan.

AUTHORIZING APPROPRIATIONS FOR EXPENSES OF THE OFFICE OF INTERGOVERNMENTAL RELATIONS

Mr. FOUNTAIN. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 757) to authorize apropriations for expenses of the Office of Intergovernmental Relations, and for other purposes, as amended.

The Clerk read as follows:

H.J. RES. 757

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby

authorized to be appropriated such sums as may be necessary for expenses of the Office of Intergovernmental Relations (referred to hereafter as the "Office"), established by Executive Order Numbered 11455 of February 14, 1969.

SEC. 2. The Director of the Office shall be compensated at a rate of basic compensation not to exceed the rate now or hereafter provided for level IV of the Federal Executive Salary Schedule.

SEC. 3. The Director of the Office is authorized—

(1) to appoint such personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services; and

(2) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate now or hereafter provided for GS–18.

The SPEAKER. Is a second demanded?

Mrs. DWYER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. FOUNTAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of House Joint Resolution 757 is to authorize expenses of the Office of Intergovernmental Relations, which was established by Executive Order 11455 of February 14, 1969. It is intended to provide authorization for the olderly funding of this Office which has been operating temporarily with personnel charged to other agencies.

The function of the Office of Intergovernmental Relations, as specified in Executive Order 11455, can be summarized as those of advising and assisting the Vice President in performing his responsibilities as the President's principal liaison with the executive and legislative officials of State and local governments. The responsibilities assigned to the Vice President for Federal-State-local relations, and the functions of the Office of Intergovernmental Relations which was established to assist him, were divided in the previous administration between the Office of the Vice President and the Office of Emergency Preparedness. The Vice President served as the President's liaison with the mayors and other local officials, while the Director of Office of Emergency Preparedness performed the same function with State governments. Both of these functions are now combined in one office under the immediate supervision of the Vice President.

This Office is intended to improve communications between the Federal Government and State and local governments, to help assure State and local officials access to the proper offices and levels in the Federal bureaucracy when questions or problems arise, and to serve as a catalyst in attempting to bring the various levels together in solving problems after the usual administrative remedies have been exhausted. This is a recourse that the mayors, county officials, and Governors feel is needed.

An office of this kind can be especially helpful to the officials of small communities—cities, counties, and towns—who need a friend in court, so to speak, when they run into unusual or unreasonable redtape in dealing with our impersonal Federal bureaucracy.

The Bureau of the Budget and the Advisory Commission on Intergovernmental Relations favor enactment of this legislation. Former Gov. Farris Bryant, speaking as Chairman of the Advisory Commission on Intergovernmental Relations, reported to the committee as follows:

> The President, by creating the Office of Intergovernmental Relations under the immediate supervision of the Vice President, has provided an appropriate focal point for close and continuing liaison between the executive branch of the Federal Government on the one hand and State and local governments on the other.
>
> The Advisory Commission believes that day-to-day liaison of this type is highly essential; it should result in better coordination of intergovernmental activities and more effective administration of Federal grant-in-aid programs. Obviously, adequate funding needs to be provided for such an Office in order for it to discharge these responsibilities.

The Director of the Office of Intergovernmental Relations has informed the committee that the administration intends to request an operating budget of $201,350 for the Office on an annual basis.

The committee gave consideration to amending the joint resolution to provide a limitation on the authorization for the Office of Intergovernmental Relations, but did not think this course practical. The committee decided instead to report the joint resolution without such a limitation on the Director's assurance that the Office will operate with the staffing described in hearings. It is the committee's desire that it be advised in the event any substantial enlargement of the Office is planned so that the committee may reconsider this matter.

After carefully considering the matter, the committee recommended passage of House Joint Resolution 757, without amendment. An identical joint resolution—Senate Joint Resolution 117—was passed by the Senate on September 29, 1969.

However, immediately after voting to report this joint resolution, the committee became aware of a desire on the part of the Committee on Post Office and Civil Service to maintain effective control over the number of supergrade positions in the executive branch. Since House Joint Resolution 757, as introduced, would have permitted the compensation of three employees at supergrade levels, the committee authorized an amendment to require those positions to be taken from the so-called general pool. The committee amendment was actually drafted by the Post Office and Civil Service Committee with whom we cooperated very closely in this matter.

For technical reasons, it was necessary in the committee amendment to delete specific references in the joint resolution to the grade level limitations for staff other than the Director. It is the committee's expectation, however, that these limitations recommended by the administration will be observed.

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

Mr. FOUNTAIN. I yield to my able and distinguished colleague, the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman for the committee amendment the gentleman just referred to, because we did note the supergrade authority which of course would violate the system that we have been operating under. I want to tell the gentleman that the cooperation shown by the committee is certainly appreciated, and it makes it much easier for me to support the legislation. I assure the gentleman that my subcommittee in its oversight with regard to supergrades will fully cooperate with the gentleman's subcommittee as a legislative committee to insure that the proper personnel are provided to carry out the purposes of the bill if it is enacted.

Mr. FOUNTAIN. I want to thank my able and distinguished colleagues from North Carolina (Mr. HENDERSON) and his Manpower Aid Civil Service Subcommittee staff for their cooperation in suggesting the language for the amendment adopted.

Mr. Speaker, I think I have adequately explained this legislation; but in closing, I would like to emphasize that House Joint Resolution 757 was recommended unanimously by the House Committee on Government Operations.

Mrs. DWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a movement having broad support in both political parties is the drive to make our unique federal system of government work more effectively. There is a growing realization that successful Government programs cannot be administered from Washington in the absence of additional State and local participation, assistance, and initiative.

In recognition of the importance of developing a more effective and coordinated federal system, President Nixon, by Executive order on February 18, 1969, established an Office of Intergovernmental Relations to be under the immediate supervision of the Vice President. The functions of the Office are to serve as a clearinghouse of Federal-State-local problems, to identify interagency and intergovernmental problems, to maintain liaison with intergovernmental units in the many Federal agencies, and to assure that State and local officials are afforded an opportunity to confer and comment on intergovernmental problems and Federal assistance programs affecting them.

The President has made an excellent selection in requesting former Gov. Nils A. Boe, of South Dakota, to serve as Director. Governor Boe has had extensive experience in State and local government and is an ideal man to provide leadership in intergovernmental matters.

This resolution, House Joint Resolution 757, which I introduced on June 3, 1969, would authorize the necessary funds for the operation of the Office. I urge its speedy enactment. I assure you that this will be money well spent as we have every reason to look forward to many times this amount saved in more

efficient and effective government at all levels.

Mr. GROSS. Mr. Speaker, will the gentlewoman yield?

Mrs. DWYER. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I would like to address a question, if I may, to the gentleman from North Carolina (Mr. FOUNTAIN) who is in charge of the bill.

The language of the bill says that this will provide ways and means to cut through redtape.

Does the gentleman really mean that the creation of this intergovernmental relations setup will do this?

Mr. FOUNTAIN. Let me say, first, to the distinguished gentleman from Iowa, that the Office has already been established by Executive order of the President. The functions of this Office were previously divided between the Office of the Vice President and the Office of Emergency Preparedness.

I do not think any agency or arm of the Government can cut through all the redtape which has been developed in government down through the years. But I do think this is an opportunity for our State and local governments, especially for smaller communities, to have a central place—an arm of the President supervised by the Vice President—to which they can go when they need help and where they can confer concerning their many problems of an intergovernmental nature.

For example, the President has taken the position, I think wisely, that he is going to do everything he can to bring the various levels of government together to strengthen our federal system by recognizing the views of people locally and at the State level, and by cooperating with them.

One recommendation which will necessitate bringing together public officials at all levels relates to revenue sharing. Consultations on this subject have already taken place between the Director of the Office of Intergovernmental Relations, Mr. Nils Boe, and local and State officials.

But the answer to your question is "No," you can never cut all the redtape. That is not the basic purpose of this joint resolution.

The purpose of this legislation is to improve the lines of communication between Washington and the other levels of government, so that when problems arise which are not adequately dealt with by the Federal administrative agencies, States and local officials can go to this office for assistance.

Mr. GROSS. Mr. Speaker, this will be the dawning of a brand new day in Washington, if the gentleman can be successful, for the sum of $250,000 or any other amount in establishing a clearinghouse through which the redtape and by which the redtape can be cut and that we can get some results from some of the agencies and departments of this government.

I hope the gentleman is right. But, I fear he is wrong. I do not know what they are going to use for a cutting instrument to cut the redtape in this new setup. I have not seen any results so far for what we have had by way of the Executive order, but I am going to look to the day when I can write to Vice President AGNEW and say to him, that I have run into a few miles of redtape over here and I hope you will help me out and untangle it or cut through it.

This will be one of the busiest offices in the Federal Government if it comes anywhere close to cutting the redtape that has immersed us all.

I thank the gentlewoman for yielding.

Mr. FOUNTAIN. Mr. Speaker, will the gentlewoman yield?

Mrs. DWYER. I am glad to yield to the gentleman from North Carolina.

Mr. FOUNTAIN. I would like to respond further to the distinguished gentleman from Iowa by saying that in my opinion it is very hard to predict what is going to happen to any agency of the Government. But in my opinion, this Office, operating under the Vice President, will have a tremendous potential for service.

We are doing two things through this legislation. We are subjecting to the surveillance of the Congress of the United States an arm of the President which is already in existence, and you can be assured that the Committee on Government Operations will be looking at the operations of this Office.

It will also place on the President of the United States, through the Vice President and those who serve in the Office. the responsibility and also the opportunity of checking on his own agencies.

There are surely many small communities in America that are making applications for programs of one kind or another, for funds which this Congress has provided under some 400 grant programs, but which do not have the talent and the experience to enable them to know exactly how to go about getting the benefits to which they are entitled. That is what this Office is for. It is to give these communities needed information, and if they come to roadblocks, to open the appropriate doors—not to be their advocates in terms of overruling an agency. The purpose is to help them understand their problems and to assist them in obtaining a full and proper hearing.

Mr. GROSS. I wish I were half as optimistic as is the gentleman from North Carolina. We will have to wait and see if the $250,000 has bought any help for them.

Mr. FOUNTAIN. I thank the gentleman for his observations and for spotlighting the importance of this legislation with his questions.

Mr. BERRY. Mr. Speaker, will the gentlewoman yield?

Mrs. DWYER. I am glad to yield to the gentleman from South Dakota.

Mr. BERRY. Mr. Speaker, I rise in support of this legislation. I feel that this Office is one that has long been needed. It is actually a liaison between the Executive Office of the Nation and the executive offices of the 50 States.

We are fortunate, Mr. Speaker, in having former Gov. Nils Boe serving as Director and since he took office in January has done an enviable job of carrying out the functions and duties of this important office.

Director Boe was formerly Governor of South Dakota. He was not only a good executive, but was recognized throughout the Nation for his ability and was chosen to head the organization of State Governors. He will be equally effective and popular in this position.

The SPEAKER. The question is on the motion of the gentleman from North Carolina that the House suspend the rules and pass the joint resolution (H.J. Res. 757), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FOUNTAIN. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of a similar Senate joint resolution (S.J. Res. 117) and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

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

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 117

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated such sums as may be necessary for expenses of the Office of Intergovernmental Relations (referred to hereafter as the "Office"), established by Executive Order Numbered 11455 of February 14, 1969.

SEC. 2. (a) The Director of the Office shall be compensated at a rate of basic compensation not to exceed the rate now or hereafter provided for level IV of the Federal Executive Salary Schedule.

(b) The Deputy Director of the Office shall be compensated at a rate of basic compensation not to exceed the rate now or hereafter provided for GS–18.

SEC. 3. The Director of the Office is authorized—

(a) to appoint and fix the compensation of such personnel as he deems necessary without regard to (1) the provisions of title 5, United States Code, governing appointments in the competitive service, and (2) the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and to general schedule pay rates: *Provided,* That, except as provided in section 2 of this Act and subsection (b) of this section, no person shall receive compensation in excess of the rate now or hereafter provided for GS–15;

(b) to fix the compensation of two employees at rates of basic compensation not to exceed the rate now or hereafter provided for GS–17; and

(c) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate now or hereafter provided for GS–18.

MOTION OFFERED BY MR. FOUNTAIN

Mr. FOUNTAIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. FOUNTAIN: Strike out all after the resolving clause of Senate Joint Resolution 117 and insert in lieu thereof the provisions of House Joint Resolution 757 as passed by the House.

The motion was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 757) was laid on the table.

EXTENSION OF INTERSTATE OIL AND GAS COMPACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the Joint Resolution (H.J. Res. 506) consenting to an extension and renewal of the interstate compact to conserve oil and gas.

The Clerk read the joint resolution as follows:

H.J. RES. 506

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to an extension and renewal for a period of two years from September 1, 1969, to September 1, 1971, of the interstate compact to conserve oil and gas, which was signed in the city of Dallas, Texas, the 16th day of February 1935, by the representatives of Oklahoma, Texas, California, and New Mexico, and at the same time and place was signed by the representatives, as a recommendation for approval to the Governors and Legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which prior to August 27, 1935, was presented to and approved by the Legislatures and Governors of the States of New Mexico, Kansas, Oklahoma, Illinois, Colorado, and Texas, and which so approved by the six States last above named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented to by the Congress for successive periods, without interruption, the last extension consented to by Congress by Public Law Numbered 90–185, Ninetieth Congress, approved December 11, 1967, being for the period from September 1, 1967, to September 1, 1969. The agreement to extend and renew said compact for a period of four years from September 1, 1967, to September 1, 1971, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming, has been deposited in the Department of State of the United States, and reads as follows:

"AN AGREEMENT TO EXTEND THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"Whereas, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed 'An Interstate Compact to Conserve Oil and Gas' which was thereafter formally ratified and approved by the States of Oklahoma, Texas, New Mexico, Illinois, Colorado, and Kansas, the original of which is now on deposit with the Department of State of the United States, a true copy of which follows:

"'AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"'ARTICLE I

"'This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

"'ARTICLE II

"'The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

"'ARTICLE III

"'Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

"'(a) The operation of any oil well with an inefficient gas-oil ratio.

"'(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

"'(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

"'(d) The creation of unnecessary fire hazards.

"'(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

"'(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

"'The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

"'ARTICLE IV

"'Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such stautes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

"'ARTICLE V

"'It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

"'ARTICLE VI

"'Each State joining herein shall appoint one representative to a commission hereby constituted and designated as "The Interstate Oil Compact Commission", the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection.

"'The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

"'No action shall be taken by the Commission except: (1) by the affirmative votes of the majority of the whole number of the compacting States represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting States at said meeting, such interest to be determined as follows: such vote of each State shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting States during said period.

"'ARTICLE VII

"'No State by joining herein shall become financially obligated to any other State, nor shall the breach of the terms hereof by any State subject such State to financial responsibility to the other States joining herein.

"'ARTICLE VIII

"'This compact shall expire September 1, 1937. But any State joining herein may, upon sixty (60) days notice, withdraw herefrom.

"'The representatives of the signatory States have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory States.

"'This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing State may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.'

"Whereas, the said Interstate Compact To Conserve Oil and Gas has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1967; and

"Whereas, it is desired to renew and extend the said Interstate Compact to Conserve Oil and Gas for a period of four (4) years from September 1, 1967, to September 1, 1971:

"Now, therefore, this writing witnesseth:

"It is hereby agreed that the Compact entitled 'An Interstate Compact To Conserve Oil and Gas' executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, a correct copy of which appears above, be, and the same hereby is, extended for a period of four (4) years from September 1, 1967, its present date of expiration, to September 1, 1971. This agreement shall become effective when executed, ratified, and approved as provided in Article I of the original Compact.

"The signatory States have executed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States and a duly certified copy thereof shall be forwarded to the Governor of each of the signatory States. Any oil-producing state may become a party hereto by executing a counterpart of this agreement to be similarly deposited, certified, and ratified.

"Executed by the several undersigned states, at their several state capitols, through their proper officials on the dates as shown, as duly authorized by statutes and resolutions, subject to the limitations and qualifications of the acts of the respective State Legislatures.

"THE STATE OF ALABAMA
"By GEORGE C. WALLACE, Governor
"Dated: Aug. 11, 1966
"Attest: Mrs. AGNES BAGGETT, Secretary of State (Seal)

"THE STATE OF ALASKA
"By WILLIAM A. EGAN, Governor
"Dated: July 13, 1966
"Attest: HUGH J. WADE, Secretary of State (Seal)

"THE STATE OF ARIZONA
"By SAMUEL P. GODDARD, Governor
"Dated: March 8, 1966
"Attest: WESLEY BOLIN, Secretary of State (Seal)

"THE STATE OF ARKANSAS
"By ORVAL E. FAUBUS, Governor
"Dated: May 3, 1966
"Attest: KELLY BRYANT, Secretary of State (Seal)
"THE STATE OF COLORADO
"By JOHN A. LOVE, Governor
"Dated: January 13, 1966
"Attest: BYRON A. ANDERSON, Secretary of State (Seal)
"THE STATE OF FLORIDA
"By HAYDON BURNS, Governor
"Dated: June 28, 1966
"Attest: TOM ADAMS, Secretary of State (Seal)
"THE STATE OF ILLINOIS
"By OTTO KERNER, Governor
"Dated: January 24, 1966
"Attest: PAUL POWELL, Secretary of State (Seal)
"THE STATE OF INDIANA
"By ROGER D. BRANIGIN, Governor
"Dated, May 31, 1966
"Attest: JOHN D. BOTTORFF, Secretary of State (Seal)
"THE STATE OF KANSAS
"By WM. H. AVERY, Governor
"Dated: December 1, 1965
"Attest: PAUL R. SHANAHAN, Secretary of State (Seal)
"THE STATE OF KENTUCKY
"By EDWARD T. BREATHITT, Governor
"Dated: 6–6–66
"Attest: THELMA L. STOVALL, Secretary of State (Seal)
"THE STATE OF LOUISIANA
"By JOHN J. MCKEITHEN, Governor
"Dated: November 22, 1965
"Attest: WADE O. MARTIN, Jr., Secretary of State (Seal)
"THE STATE OF MARYLAND
"By J. MILLARD TAWES, Governor
"Dated: October 10, 1966
"Attest: LLOYD L. SIMPKINS, Secretary of State (Seal)
"THE STATE OF MICHIGAN
"By GEORGE ROMNEY, Governor
"Dated: 5/19/66
"Attest: JAMES M. HARE, Secretary of State (Seal)
"The STATE OF MISSISSIPPI
"By PAUL B. JOHNSON, Governor
"Dated: April 27, 1966
"Attest: HEBER LADNER, Secretary of State (Seal)
"THE STATE OF MONTANA
"By TIM BABCOCK, Governor
"Dated: Feb. 14, 1966
"Attest: FRANK MURRAY, Secretary of State (Seal)
"THE STATE OF NEBRASKA
"By FRANK B. MORRISON, Governor
"Dated: Jan. 31, 1966
"Attest: FRANK MARSH, Secretary of State (Seal)
"THE STATE OF NEVADA
"By GRANT SAWYER, Governor
"Dated: June 17, 1966
"Attest: JOHN KOONTZ, Secretary of State (Seal)
"THE STATE OF NEW MEXICO
"By JACK M. CAMPBELL, Governor
"Dated: 11–8–65
"Attest: ALBERTA MILLER, Secretary of State (Seal)
"The STATE OF NEW YORK
"By NELSON A. ROCKEFELLER, Governor
"Dated: Nov. 28, 1966
"Attest: JOHN P. LOMENZO, Secretary of State (Seal)
"The STATE OF NORTH DAKOTA
"By WILLIAM L. GUY, Governor
"Dated: Dec. 19, 1966
"Attest: BEN MEIER, Secretary of State (Seal)
"THE STATE OF OHIO
"By JAMES A. RHODES, Governor
"Dated: July 25, 1966
"Attest: TED W. BROWN, Secretary of State (Seal)
"THE STATE OF OKLAHOMA
"By HENRY BELLMON, Governor
"Dated: November 15, 1965
"Attest: JAMES M. BULLARD, Secretary of State (Seal)
"THE COMMONWEALTH OF PENNSYLVANIA
"By WILLIAM W. SCRANTON, Governor
"Dated: Sept. 16, 1966
"Attest: W. STUART HELM, Secretary of the Commonwealth (Seal)
"THE STATE OF SOUTH DAKOTA
"By NILS A. BOE, Governor
"Dated: Sept. 26, 1966
"Attest: ALMA LARSON, Secretary of State (Seal)
"THE STATE OF TENNESSEE
"By FRANK G. CLEMENT, Governor
"Dated: 4–18–1966
"Attest: JOE C. CARR, Secretary of State (Seal)
"THE STATE OF TEXAS
"By JOHN CONNALLY, Governor
"Dated: October 11, 1965
"Attest: CRAWFORD C. MARTIN, Secretary of State (Seal)
"THE STATE OF UTAH
"By CALVIN L. RAMPTON, Governor
"Dated: 4/11/66
"Attest: CLYDE L. MILLER, Secretary of State (Seal)
"THE STATE OF WEST VIRGINIA
"By HULETT C. SMITH, Governor
"Dated: July 14, 1966
"Attest: ROBERT D. BAILEY, Secretary of State (Seal)
"THE STATE OF WYOMING
"By CLIFFORD P. HANSEN, Governor
"Dated: Jan. 18, 1966
"Attest: THYRA THOMSON, Secretary of State (Seal)"

SEC. 2. The Attorney General of the United States shall continue to make an annual report to Congress, as provided in section 2 of Public Law 185, Eighty-fourth Congress, for the duration of the Interstate Compact to Conserve Oil and Gas as to whether or not the activities of the States under the provisions of such compact have been consistent with the purposes as set out in article V of such compact.

SEC. 3. The right to alter, amend, or repeal the provisions of the first section of this joint resolution is hereby expressly reserved.

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr Speaker, the committee has before it for consideration legislation which would grant the consent of the Congress to an extension and renewal of the interstate oil and gas compact until September 1, 1971. The Subcommittee on Communications and Power unanimously reported House Joint Resolution 506 to the full committee after holding hearings on it. The other bill is Senate Joint Resolution 54 which was passed by the Senate on October 13. I should note for the information of the Members that consent of the Congress to the compact expired as of September 1, 1969.

The Interstate compact to conserve oil and gas was first approved by the Congress in 1935. Since that time it has been renewed and extended nine times.

The purpose of the compact is to permit oil-producing States to act together voluntarily for the purpose of conserving two of our most important natural resources—oil and natural gas. This is done by developing and improving oil and gas conservation programs and eliminating wasteful practices with respect to those precious minerals. Twenty-nine States are members of the compact.

The compact, as article V makes clear, is not intended to be used to limit production or fix the prices of oil and gas. The Attorney General is required to make an annual report to the Congress on whether actual operation of the compact is consistent with this intent.

Recent reports submitted pursuant to this provision have stated that although there are anticompetitive factors affecting the marketing of oil and natural gas, these factors cannot be attributed to the compact, and its role is constructive insofar as it can be separately identified and appraised.

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

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, does this joint resolution deal in any way with the present offshore oil proposition?

Mr. STAGGERS. It does not.

Mr. GROSS. I thank the gentleman from West Virginia.

(Mr. SPRINGER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SPRINGER. Mr. Speaker, the interstate oil and gas compact has been around now for 34 years. Its very commendable purpose is to allow cooperation among oil- and gas-producing States to agree on practices which will conserve the supply of those precious substances for the benefit of all Americans.

There are now 29 States which adhere to the pact, with resulting stability and relative uniformity in conservation practices among them. Although no State is required to do anything by the terms of the pact, most States do have very specific conservation regulations which they enforce. By sticking together on the matter the States have avoided cutthroat practices which would jeopardize our oil and gas reserves. Each State has been able to rest easy in the knowledge that other oil and gas producers have been insisting upon the same conservation practices and the temptation to jump the traces is surpressed.

At times there have been suggestions that the oil compact results in price fixing. Some years ago the committee requested the Attorney General to keep a particularly watchful eye on this aspect of the compact. Each official report since then has assured us that any shenanigans on prices, and there may be some now and then, have no relationship to this compact and that no practice under the compact is designed to encourage or foster it. The compact itself specifically states that it may not be used in any way to stabilize or fix prices, and apparently this agreement has been honored.

This bill would extend the consent of Congress to the compact for an additional 2 years. I recommend that it again be approved.

Mr. PICKLE. Mr. Speaker, within the last 2 years we have a proven track record for the interstate compact on oil and gas. For nearly 30 years, we have this

same proven record. It has proven to be a good vehicle for the orderly use of petroleum and it is a tool used in receiving maximum benefit from the oil economies in several oil-producing States.

We are asking today for a 2-year extension of a workable program. The theory and practice of the oil compact has been carefully scrutinized by the Attorney General. His report indicates there was no foundation for the earlier fears that this compact would make the temptation too strong to set and control petroleum prices. Since 1967, the Attorney General has uncovered not one single case of abuse by the industry.

The only reason the bill was limited to 2 years in the 1967 act was to provide ample time for the Attorney General to conduct an investigation. His office issued a report in April of this year. The committee, after analyzing the study, reported the bill out. It is a valuable oil and gas conservation measure.

I am pleased that we are considering this bill today. I consider it to be as necessary as drilling bits to the oil industry and the growth of this vital segment of our national economy. I strongly urge its extension.

The SPEAKER. The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the joint resolution (H.J. Res. 506).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate joint resolution (S.J. Res. 54) consenting to an extension and renewal of the interstate compact to conserve oil and gas.

The Clerk read the title of the Senate joint resolution.

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

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 54

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to an extension and renewal for a period of two years from September 1, 1969, to September 1, 1971, of the interstate compact to conserve oil and gas, which was signed in the city of Dallas, Texas, the 16th day of February, 1935, by the representatives of Oklahoma, Texas, California, and New Mexico, and at the same time and place was signed by the representatives, as a recommendation for approval to the Governors and Legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which prior to August 27, 1935, was presented to and approved by the Legislatures and Governors of the States of New Mexico, Kansas, Oklahoma, Illinois, Colorado, and Texas, and which so approved by the six States last above-named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented to by the Congress for successive periods, without interruption, the last extension being for the period from September 1, 1967, to September 1, 1969, consented to by Congress by Public Law Numbered 90–185, Ninetieth Congress, approved December 11, 1967. The agreement to extend and renew said compact for a period of four years from September 1, 1967, to September 1, 1971, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming, has been deposited in the Department of State of the United States, and reads as follows:

"AN AGREEMENT TO EXTEND THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"Whereas, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed 'An Interstate Compact to Conserve Oil and Gas' which was thereafter formally ratified and approved by the States of Oklahoma, Texas, New Mexico, Illinois, Colorado, and Kansas, the original of which is now on deposit with the Department of State of the United States, a true copy of which follows:

" 'AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

" 'ARTICLE I

" 'This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

" 'ARTICLE II

" 'The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

" 'ARTICLE III

" 'Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

" '(a) The operation of any oil well with inefficient gas-oil ratio.

" '(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

" '(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

" '(d) The creation of unnecessary fire hazards.

" '(e) The drilling, equipping, locating, spacing or operating a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

" '(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

" 'The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

" 'ARTICLE IV

" 'Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

" 'ARTICLE V

" 'It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

" 'ARTICLE VI

" 'Each State joining herein shall appoint one representative to a commission hereby constituted and designated as "The Interstate Oil Compact Commission", the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection.

" 'The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

" 'No action shall be taken by the Commission except: (1) by the affirmative votes of the majority of the whole number of compacting States represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting States at said meeting, such interest to be determined as follows: such vote of each State shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting States during said period.

" 'ARTICLE VII

" 'No State by joining herein shall become financially obligated to any other State, nor shall the breach of the terms hereof by any State subject such State to financial responsibility to the other States joining herein.

" 'ARTICLE VIII

" 'This compact shall expire September 1, 1937. But any State joining herein may, upon sixty (60) days notice, withdraw herefrom.

" 'The representatives of the signatory States have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory States.

" 'This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing State may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.'

"Whereas, the said Interstate Compact to Conserve Oil and Gas has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1967; and

"Whereas, it is desired to renew and extend the said Interstate Compact to Conserve Oil and Gas for a period of four (4) years from September 1, 1967, to September 1, 1971:

"Now, therefore, this writing witnesseth:

"It is hereby agreed that the Compact entitled 'An Interstate Compact To Conserve Oil and Gas' executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, a correct copy of which appears above, be, and the same hereby is, extended for a period of four (4) years

from September 1, 1967, its present date of expiration, to September 1, 1971. This agreement shall become effective when executed, ratified, and approved as provided in Article I of the original Compact.

"The signatory States have executed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States and a duly certified copy thereof shall be forwarded to the Governor of each of the signatory States. Any oil-producing state may become a party hereto by executing a counterpart of this agreement to be similarly deposited, certified, and ratified.

"Executed by the several undersigned states, at their several state capitols, through their proper officials on the dates as shown, as duly authorized by statutes and resolutions, subject to the limitations and qualifications of the acts of the respective State Legislatures.

"THE STATE OF ALABAMA
"By GEORGE C. WALLACE, Governor
"Dated: Aug. 11, 1966
"Attest: Mrs. AGNES BAGGETT, Secretary of State (Seal)

"THE STATE OF ALASKA
"By WILLIAM A. EGAN, Governor
"Dated: July 13, 1966
"Attest: HUGH J. WADE, Secretary of State (Seal)

"THE STATE OF ARIZONA
"By SAMUEL P. GODDARD, Governor
"Dated: March 8, 1966
"Attest: WESLEY BOLIN, Secretary of State (Seal)

"THE STATE OF ARKANSAS
"By ORVAL E. FAUBUS, Governor
"Dated: May 3, 1966
"Attest: KELLY BRYANT, Secretary of State (Seal)

"THE STATE OF COLORADO
"By JOHN A. LOVE, Governor
"Dated: January 13, 1966
"Attest: BYRON A. ANDERSON, Secretary of State (Seal)

"THE STATE OF FLORIDA
"By HAYDON BURNS, Governor
"Dated: June 28, 1966
"Attest: TOM DAVIS, Secretary of State (Seal)

"THE STATE OF ILLINOIS
"By OTTO KERNER, Governor
"Dated: January 24, 1966
"Attest: PAUL POWELL, Secretary of State (Seal)

"THE STATE OF INDIANA
"By RODGER D. BRANIGIN, Governor
"Dated: May 31, 1966
"Attest: JOHN D. BOTTORFF, Secretary of State (Seal)

"THE STATE OF KANSAS
"By WM. H. AVERY, Governor
"Dated: December 1, 1965
Attest: PAUL R. SHANAHAN, Secretary of State (Seal)

"THE STATE OF KENTUCKY
"By EDWARD T. BREATHITT, Governor
"Dated: 6-6-66
"Attest: THELMA L. STOVALL, Secretary of State (Seal)

"THE STATE OF LOUISIANA
"By JOHN J. MCKEITHEN, GOVERNOR
"Dated: November 22, 1965
"Attest: WADE O. MARTIN, Jr., Secretary of State (Seal)

"THE STATE OF MARYLAND
"By J. MILLARD TAWES, Governor
"Dated: October 10, 1966
"Attest: LLOYD L. SIMPKINS, Secretary of State (Seal)

"THE STATE OF MICHIGAN
"By GEORGE ROMNEY, Governor
"Dated: 5-19-66
"Attest: JAMES M. HARE, Secretary of State (Seal)

"THE STATE OF MISSISSIPPI
"By PAUL B. JOHNSON, Governor
"Dated: April 27, 1966
"Attest: HEBER LADNER, Secretary of State (Seal)

"THE STATE OF MONTANA
"By TIM BABCOCK, Governor
"Dated: Feb. 14, 1966
"Attest: FRANK MURRAY, Secretary of State (Seal)

"THE STATE OF NEBRASKA
"By FRANK B. MORRISON, Governor
"Dated: Jan. 31, 1966
"Attest: FRANK MARSH, Secretary of State (Seal)

"THE STATE OF NEVADA
"By GRANT SAWYER, Governor
"Dated: June 17, 1966
"Attest: JOHN KOONTZ, Secretary of State (Seal)

"THE STATE OF NEW MEXICO
"By JACK M. CAMPBELL, Governor
"Dated: Nov. 8, 1965
"Attest: ALBERT MILLER, Secretary of State (Seal)

"THE STATE OF NEW YORK
"By NELSON A. ROCKEFELLER, Governor
Dated: Nov. 28, 1966
"Attest: JOHN P. LOMENZO, Secretary of State (Seal)

"THE STATE OF NORTH DAKOTA
"By WILLIAM L. GUY, Governor
"Dated: Dec. 19, 1966
"Attest: BEN MEIER, Secretary of State (Seal)

"THE STATE OF OHIO
"By JAMES A. RHODES, Governor
"Dated: July 25, 1966
"Attest: TED W. BROWN, Secretary of State (Seal)

"THE STATE OF OKLAHOMA
"By HENRY BELLMON, Governor
"Dated: November 15, 1965
"Attest: JAMES M. BULLARD, Secretary of State (Seal)

"THE COMMONWEALTH OF PENNSYLVANIA
"Dated: Sept. 16, 1966
"Attest: W. STUART HELM, Secretary of the Commonwealth (Seal)

"THE STATE OF SOUTH DAKOTA
"By Nils A. Boe, Governor
"Dated: Sept. 26, 1966
"Attest: ALMA LARSON, Secretary of State (Seal)

"THE STATE OF TENNESSEE
"By FRANK G. CLEMENT, Governor
"Dated: 4-18-66
"Attest: JOE C. CARR, Secretary of State (Seal)

"THE STATE OF TEXAS
"By JOHN CONNALLY, Governor
"Dated: October 11, 1965
"Attest: CRAWFORD C. MARTIN, Secretary of State (Seal)

"THE STATE OF UTAH
"By CALVIN L. RAMPTON, Governor
"Dated: 4/11/66
"Attest: CLYDE L. MILLER, Secretary of State (Seal)

"THE STATE OF WEST VIRGINIA
"By HULETT C. SMITH, Governor
"Dated: July 14, 1966
"Attest: ROBERT D. BAILEY, Secretary of State (Seal)

"THE STATE OF WYOMING
"By CLIFFORD P. HANSEN, Governor
"Dated: Jan. 18, 1966
"Attest: THYRA THOMSON, Secretary of State (Seal)"

SEC. 2. The Attorney General of the United States shall continue to make an annual report to Congress, as provided in section 2 of Public Law 185, Eighty-fourth Congress, for the duration of the Interstate Compact to Conserve Oil and Gas to whether or not the activities of the State under the provisions of such compact have been consistent with the purposes as set out in article V of such compact.

SEC. 3. The right to alter, amend, or repeal the provisions of the first section of this joint resolution is hereby expressly reserved.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike out all after the resolving clause of Senate Joint Resolution 54 and insert in lieu thereof the provisions of House Joint Resolution 506, as passed.

The amendment was agreed to.

The Senate joint resolution 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 joint resolution (H.J. Res. 506) was laid on the table.

FORMULA GRANTS TO SCHOOLS OF PUBLIC HEALTH

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14086) to amend the Community Mental Health Centers Act to extend the program of assistance under that act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, and for other purposes, as amended.

The Clerk read as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Community Mental Health Centers Amendments of 1969".

TITLE I—GRANTS FOR CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS AND FACILITIES FOR ALCOHOLICS AND NARCOTIC ADDICTS

EXTENSION OF PROGRAM FOR COMMUNITY MENTAL HEALTH CENTERS

SEC. 101. (a) Section 201 of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended by striking out the period at the end and inserting in lieu thereof a comma and the following: "and for each of the next three fiscal years.".

(b) Section 207 of such Act (42 U.S.C. 2687) is amended by striking out "1970" and inserting in lieu thereof "1973".

EXTENSION OF PROGRAMS FOR FACILITIES FOR ALCOHOLICS AND NARCOTIC ADDICTS

SEC. 102. (a) Section 261(a) of such Act (42 U.S.C. 2688o) is amended by striking out "and $25,000,000 for the next fiscal year" and inserting in lieu thereof "$15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $25,000,000 for the fiscal year ending, June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973,".

(b) Section 261(b) of such Act is amended by striking out "the next three" and inserting in lieu thereof "the next seven", and by striking out "for the fiscal year ending June 3, 1969, or the fiscal year ending June 30, 1970" and inserting in lieu thereof "for any fiscal year ending before July 1, 1973".

TRAINING AND EVALUATION OF PROGRAMS FOR ALCOHOLISM AND NARCOTIC ADDICTION

SEC. 103. (a) Part C of the Community Mental Health Centers Act is amended by redesignating sections 245 and 246 as sections 246 and 247, respectively, and by inserting after section 244 the following:

"TRAINING AND EVALUATION

"SEC. 245. The Secretary is authorized to make grants to any public or nonprofit private agency or organization to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of public health services for the prevention and treatment of alcoholism, or developing inservice training or short-term or refresher courses with respect to the provision of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of

the programs for the prevention and treatment of alcoholism within the several States with a view to determining ways and means of improving, extending, and expanding such programs."

(b) Section 252 of such Act (42 U.S.C. 2688l) is amended by striking out "1970" and inserting in lieu thereof "1973".

(c) The first sentence of section 261(a) of the Community Mental Health Centers Act (42 U.S.C. 2688o) is amended by striking out "section 252" and inserting in lieu thereof "sections 245 and 252".

TITLE II—GRANTS FOR STAFFING OF COMMUNITY MENTAL HEALTH CENTERS AND FACILITIES FOR ALCOHOLICS AND NARCOTIC ADDICTS

FEDERAL SHARE

SEC. 201. (a)(1) Effective with respect to costs of compensation of professional and technical personnel of any community mental health center for any period after June 30, 1970, for which a grant has been or is made under subsection (a) of section 220 of the Community Mental Health Centers Act (42 U.S.C. 26883, subsection (b) of such section is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), grants under this section for such costs for any center may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of six years and three months after such day; and such grants with respect to any center may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following such first day, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third, fourth, and fifth years thereafter.

"(2) In the case of any such center providing services for persons in an area designated by the Secretary as an urban or rural poverty area, grants under this part for such costs for any such center may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of six years after such first day; and such grants with respect to any such center may not exceed 90 per centum of such costs for the first two years after such first day, 80 per centum of such costs for the third year after such first day, and 70 per centum of such costs for the fourth, fifth, and sixth years after such first day."

(2) Effective with respect to costs of compensation of professional and technical personal of any alcoholism prevention and treatment facility, specialized facility for alcoholics, or treatment facility for narcotics addicts for any period after June 30, 1970, for which a grant has been or is made under section 242, 243, or 251 of the Community Mental Health Centers Act (42 U.S.C. 2688g, 2688h, 2688k), subsection (b) of section 242 of such Act is amended to read as follows:

"(b)(1) Grants under this part for such costs for any facility may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of six years after such first day; and, except as provided in paragraph (2), such grants with respect to any facility may not exceed 80 percentum of such costs for the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for the sixth year after such first day.

"(2) In the case of any such facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants with respect to any such facility may not exceed 90 per centum of such costs for the first two years after such first day, 80 per centum of such costs for the third year after such first day, and 70 per centum of such costs for the fourth, fifth, and sixth years after such first day."

(b) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, or treatment facility for narcotic addicts, for which a staffing grant was made under section 220, 242, 243, or 251 of the Community Mental Health Centers Act before July 1, 1970, the applicable provisions of subsection (b) of section 220 or 242 of such Act (as amended by subsection (a) of this section) shall, with respect to costs incurred after June 30, 1970, apply to the same extent as if such subsection (b) had been in effect on the date a staffing grant for such center or facility was initially made.

AUTHORIZATION OF APPROPRIATIONS

SEC. 202. (a) The first sentence of section 224 of such Act (42 U.S.C. 2688d) is amended by striking out "and $32,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof "$26,000,000 for the fiscal year ending June 30, 1970, $32,000,000 for the fiscal year ending June 30, 1971, $40,00,000 for the fiscal year ending June 30, 1972, and $48,000,000 for the fiscal year ending June 30, 1973".

(b) The last sentence of such section 224 is amended by striking out "seven" and inserting in lieu thereof "twelve".

(c) Section 221(b) of such Act (42 U.S.C. 2688a) is amended by striking out "1970" each place it appears therein and inserting in lieu thereof "1973".

REVIEW OF APPLICATIONS BY STATE MENTAL HEALTH AUTHORITY AND HEALTH PLANNING AGENCIES

SEC. 203. (a) Effective with respect to projects approved under sections 220 and 242 of the Community Mental Health Centers Act (42 U.S.C. 2688, 2688g) after June 30, 1970, section 221(a) of such Act (42 U.S.C. 2688a) is amended by adding immediately below paragraph (5) of the first sentence the following new sentence: "No application for a grant under section 220 shall be approved unless opportunity has been provided, prior to such approval, for consideration of the project by the State mental health authority, by any public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act covering the area in which the project is to be located, and by the State agency administering or supervising the administration of the State plan approved under section 314 (a) of such Act."

(b) Effective with respect to projects approved under sections 243 and 251 of such Act (42 U.S.C. 2688h, 2688k) after June 30, 1970, subsection (c) of section 243 of such Act (42 U.S.C. 2688h) and subsection (c) of section 251 of such Act (42 U.S.C. 2688k) are amended by adding at the end of each subsection the following: "No application for a grant under this section shall be approved unless opportunity has been provided, prior to such approval, for consideration of the project by the State mental health authority, by any public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act covering the area in which the project is to be located, and by the State agency administering or supervising the administration of the State plan approved under section 314(a) of such Act."

GRANTS FOR CONSULTATION SERVICES

SEC. 204. Part E of the Community Mental Health Centers Act is amended by adding at the end thereof the following new section:

"SEC. 264. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts, or facility for mental health of children, to which a grant under part B, C, D, or F, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1970, to assist it in meeting a portion of the costs of compensation of professional and technical personnel providing consultation services, the Secretary may, with respect to such center or facility, make a grant under this section in addition to such other staffing grant for such center or facility.

"(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection—

"(1) may be made only for the period applicable to the staffing grant made under part B, C, D, or F, as the case may be, with respect to such center or facility, and

"(2) may not exceed whichever of the following is the lower: (A) 15 per centum of the costs with respect to which such other staffing grant is made, or (B) that percentage of such costs when added to the percentage of such costs covered by such other staffing grant equals 100 per centum.

"(c) For purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and for each of the next seven fiscal years such sums as may be necessary to continue to make grants under this section for projects which received initial grants under this section from appropriations authorized for any fiscal year ending before July 1, 1973."

APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

SEC. 205. (a) Part E of the Community Mental Health Centers Act is amended by adding after the section added by section 204 the following new section:

"APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

"SEC. 265. Grants made under this title for the cost of compensation of professional and technical personnel may be made only upon recommendation of the National Advisory Mental Health Council established by section 217(a) of the Public Health Service Act."

(b) The amendment made by subsection (a) shall apply with respect to grants initially made under the Community Mental Health Centers Act from appropriations made for fiscal years beginning after June 30, 1970.

INITIATION AND DEVELOPMENT GRANTS

SEC. 206. Effective with respect to appropriations made under section 224 of the Community Mental Health Centers Act (42 U.S.C. 2688d) for fiscal years beginning after June 30, 1970, part B of such Act is amended by adding after such section 224 the following new section:

"GRANTS FOR INITIATION AND DEVELOPMENT OF COMMUNITY MENTAL HEALTH CENTERS

"SEC. 225. For the purposes of assessing local mental health needs, developing necessary resources, and involving local citizens in the development of mental health programs, up to a maximum of 5 per centum of the appropriation for each fiscal year under section 224 shall be available to the Secretary for grants to local public or nonprofit private agencies or organizations to cover up to 100 per centum of the costs, but in no case to exceed $50,000, for initiation and development of a program for delivery of community mental health center services, for one year only running from the first day of the first month for which such a grant is made with respect to such a local public or private nonprofit agency or organization."

TITLE III—AMENDMENTS RELATING TO COMMUNITY MENTAL HEALTH CENTERS AND FACILITIES FOR THE MENTALLY RETARDED, ALCOHOLICS, AND NARCOTIC ADDICTS

FEDERAL SHARE; HIGHER SHARE FOR DISADVANTAGED AREAS

SEC. 301. Effective with respect to projects approved after June 30, 1970, under part C of title I or part A of title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, section 402 of such Act (42 U.S.C. 2692) is repealed and section 401(h) of such Act is amended to read as follows:

"(h)(1) The term 'Federal share' with respect to any project means the portion of the cost of construction of such project to be paid by the Federal Government under part C of title I or part A of title II.

"(2) The Federal share with respect to any project in the State shall be the amount determined by the State agency designated in the State plan but, except as provided in paragraph (3), the Federal share for any project may not exceed 66⅔ per centum of the cost of construction of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for such projects in such State approved during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

"(3) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under part C of title I or under part A of title II, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (2) may not exceed 90 per centum of the costs of construction of the project."

PERIOD FOR PROMULGATING FEDERAL PERCENTAGES

SEC. 302. Section 401(j)(1) of such Act is amended by striking out "August 31" and inserting in lieu thereof "September 30".

MAXIMUM FEDERAL SHARE OF CONSTRUCTION PROJECTS FOR FACILITIES FOR ALCOHOLICS OR NARCOTIC ADDICTS IN DISADVANTAGED AREAS

SEC. 303. Effective with respect to projects approved after June 30, 1970, under part C or part D of the Community Mental Health Centers Act, section 241(b) of such Act (42 U.S.C. 2688f), section 243(d) of such Act (42 U.S.C. 2688h), and section 251(b) of such Act (42 U.S.C. 2688k) are each amended by inserting immediately after "66⅔ per centum" the following: "(or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area)".

TITLE IV—MENTAL HEALTH OF CHILDREN

CONSTRUCTION AND STAFFING OF TREATMENT FACILITIES

SEC. 401. The Community Mental Health Centers Act is amended by adding after part E the following:

"PART F—MENTAL HEALTH OF CHILDREN

"GRANTS FOR TREATMENT FACILITIES

"SEC. 271. (a) Grants from appropriations under subsection (d) may be made by the Secretary to any public or nonprofit private agency or organization which owns or operates a community mental health center to assist such agency or organization in meeting the costs of construction of a facility for mental health of children within the States, and to assist such an agency or organization in meeting a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the operation of a facility for mental health of children constructed with a grant made under part A or this part or for the operation of new services in an existing facility for mental health of children.

"(b)(1) No grant may be made under this section for the construction of a facility for mental health of children unless such facility will be part of or affiliated with the community mental health center owned or operated by the agency or organization receiving the grant.

"(2) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c)(1) No application for a grant under this part for the costs of compensation of professional and technical personnel shall be approved unless opportunity has been provided, prior to such approval, for consideration of the project by the State and mental health authority, by any public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act covering the area in which the project is to be located, and by the State agency administering or supervising the administration of the State plan approved under section 314(a) of such Act.

"(2) Grants made under this section for such costs may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

"(d)(1) There are authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, for grants under this part for construction, for initial grants under this part for compensation of professional and technical personnel, and for training and evaluation grants under section 272.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and each of the next six fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which an initial staffing grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1973.

"TRAINING AND EVALUATION

"SEC. 272. The Secretary is authorized, during the period beginning July 1, 1971, and ending with the close of June 30, 1973, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of children, or developing inservice training or short-term or refresher courses with respect to the provision of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of children within the several States with a view to determining ways and means of improving, extending, and expanding such programs."

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, this bill was considered in 3 days of hearings and was ordered reported unanimously.

Basically, the bill is a 3-year extension of the existing program of grants for the construction and staffing of community mental health centers, with a number of modifications recommended at the hearings.

The existing construction grant authorization of $70 million a year is extended in the same amount for 3 fiscal years, fiscal years 1971, 1972, and 1973. The program of grants for paying a portion of the cost of professional and technical personnel staffing these centers is also extended for 3 years, with a change in that formula.

It seems that most of the centers are beginning to run into financial difficulties so the matching formula is stretched out for 2 additional years, with appropriation authorizations of $32 million, $40 million, and $48 million for fiscal years 1971 through 1973. This compares with the authorization for fiscal year 1970 which is at $32 million, which the bill reduces to $26 million.

Mr. Speaker, frankly I do not think that the amounts provided in this bill are adequate to meet national needs in this area. The committee is in a dilemma, however. In recent years we have authorized what we thought were adequate programs, and then it has been our experience that the administration asks for much less than the authorization, and when they get the appropriation, they fail to spend the appropriated amounts. This has been true almost across the board in health programs, and has been true in the case of the community mental health centers program.

Our national goal, as set in 1963, is for 2,000 of these centers, yet the administration's goals now are for somewhere around 450 by 1972. This is far too few, but the budget constraints we have had in recent years have led in many areas—this one included—to our saving a few dollars today, with the inevitable result that expenditures have to be greater later. We demonstrate over and again the wisdom of the comment that a "stitch in time saves nine," and in the health area we have been saving individual stitches. In other words, I think the authorizations for staffing contained in this bill are inadequate, but in view of recent history in the case of appropriations, I think the amounts set in the bill are fairly realistic; not in terms of needs, but rather in terms of realistic expectations.

To return to the bill, in 1968 the law was amended to add a 2-year authority for construction and staffing of facilities for alcoholic and narcotic addicts, at a $25 million authorization for fiscal year 1970. This bill would authorize $15 million for 1970, and then $20 million, $25 million, and $30 million for fiscal years 1971, 1972, and 1973 for this program.

Two new features are added. One is a program of grants for construction and

staffing of facilities which are an integral part of community mental health centers but devoted to the mental health of children. Grants for construction may be up to two-thirds of cost, and grants for staffing may be at the level of 80 percent for 2 years, 75 percent for 1 year, 60 percent for a year, 45 percent for a year, and 30 percent for the sixth and last year. The committee felt this preferential treatment was necessary because children's mental health services are usually more expensive than mental health services for adults and we wanted to encourage the adoption of programs in this area.

In addition, the committee provided for an additional 15 percent of staffing costs to be covered in the case of consultative services provided by mental health centers. This type of service involves use of mental health professional manpower to consult with persons who deal with the public, such as schoolteachers, ministers and others, to aid them in recognizing and coping with mental health problems of people whom they deal with. This is a way of stretching scarce manpower in this area, so 15 percent additional can be added to the Federal construction for costs of these services.

The bill contains another feature, dealing with urban and rural poverty areas. Up to 90 percent of the construction costs of facilities of community mental health centers facilities for alcoholics and narcotics addicts, and facilities for children may be paid. With respect to the staffing of these facilities, the bill provides that 90 percent of the costs may be covered for the first 2 years, 80 percent for the third year, and 70 percent for the next 3 years. I am sure the committee will have to take another look at this formula 3 years from now.

The bill also permits use of 5 percent of appropriated funds for staffing to be used for developing new programs leading to the establishment of community mental health centers. With respect to the relationship between this program and comprehensive planning, the bill requires that all applications for staffing grants must be submitted for review and comment to the State mental health authority, to the areawide planning agency, if there is one, and, in addition, to the State comprehensive planning agency. These three agencies do not have a veto power, but are permitted to review and comment on the application. In addition, the National Advisory Mental Health Council is given authority to review all staffing grant applications, and no application may be approved unless the Council so recommends.

Mr. Speaker, this covers the principal areas dealt with by the bill, and we recommend its passage.

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

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, did the gentleman say this is a 3-year extension, or for how many years is it?

Mr. STAGGERS. This is a 3-year extension of the basic law with the exception that we have extended the staffing for 2 years.

Mr. GROSS. Extended the staffing for 2 years?

Mr. STAGGERS. That is correct.

Mr. GROSS. Does this provide for expansion or additions to the mental health centers?

Mr. STAGGERS. Yes, it does.

As I explained, there are two changes, for the children's mental health programs for taking care of the youngsters who have problems, and consultation services to help prevent some of them from becoming problems.

Mr. GROSS. Mr. Speaker, does this provide for an increase in the next 3 years?

Mr. STAGGERS. For an increase?

Mr. GROSS. Yes, an increase in expenditures. Does this authorize an increase in expenditures?

Mr. STAGGERS. It does. I would say this to the gentleman: it is not nearly enough of an increase, in my opinion.

One of the great problems we have in the Nation today, as the gentleman knows and as we have said before, is that one out of every 10 Americans can expect to spend some time in a mental institution before he dies.

Mr. GROSS. I understand that.

Mr. STAGGERS. As I said, in my opinion we are not providing enough in several ways.

I could mention various community mental health centers which are on the verge of closing. They have spent enormous amounts of money and do a great job for their people. They are finding it difficult to raise matching funds.

We did expand this bill in another way for the poverty areas by providing a little more matching for them. This was approved by the administration in their proposal, as well as the other bills we had.

Mr. GROSS. Is there not a difficulty with respect to finding trained and experienced personnel to man an expanded program? Somewhere not too long ago, I read quite an article which seemed to be authentic, saying that they were having tremendous difficulty in finding trained personnel.

Did the committee go into this, in providing more money for an expanded program?

Mr. STAGGERS. Yes.

Mr. GROSS. We can spend all the money in the world, yet without trained and experienced personnel in centers of this kind, the money would be largely wasted.

Mr. STAGGERS. I would agree with the gentleman on that.

Last year we passed the Health Manpower Act, which specifically is tooled to do just this job, which we need to do. We need to do more of it, I can say to the gentleman.

Mr. SPRINGER. Mr. Speaker, I yield myself such time as I may consume.

In reply to my distinguished colleague from Iowa, may I say we have kept this strictly within the budget. When they came down for hearings we went into this whole question of staffing very completely. I have been one who has been quite interested in whether or not staffing could be supplied. I was satisfied as a result of the testimony that was given it could be done.

Representatives of two States—Illinois and Minnesota—have been in to see me this week on this question of staffing. I happen to have some intimate knowledge of those two States with reference to this particular problem.

They felt there was not enough money in this bill to do what they had in mind. On the other hand, they were unanimous in approving what we have done thus far, and felt it was very good.

All of the other States, including the gentleman's own State of Iowa, have found this program to be extremely helpful in this whole mental health field. I do want to say that the State of Iowa does go along with this program and endorses it.

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

Mr. SPRINGER. I yield to the gentleman from Iowa.

Mr. GROSS. I was not being critical of the program in any sense. I am merely asking whether the committee ascertained that there are enough retained and experienced staff people to provide for an expanded program. That is all.

Mr. SPRINGER. I understood that what the gentleman said was intended to be constructive, to find out the details with reference to this bill. I believe the gentleman has contributed greatly with what he has said today in making these inquiries.

Mr. Speaker, the legislation providing grants for the creation of community mental health centers in 1963 started what has become the most successful and meaningful Federal health program since Hill-Burton. Upon the recommendation of the medical profession as well as Public Health authorities Congress provided funds to assist in the construction of facilities at the local level to treat mental problems. At a later date when the program was renewed, it was demonstrated that the bricks and mortar made available would provide little help unless professional people necessary to the activity could be attracted to serve. As a result funds were made available to assist the community in acquiring and keeping such staff by underwriting a certain percentage of those expenses on a decreasing scale over the years.

Community mental health centers have been built, have been staffed, and are operating in over 400 communities. This is, of course, a very small start toward the elimination of the archaic system for the confinement and treatment of mental patients, but it is a start, and the program has performed even beyond the expectations of its sponsors.

We discovered as time went on that certain other necessary activities could be included within the framework of the program. The last Congress authorized the use of funds to expand community mental health centers to include treatment facilities for narcotic addicts and alcoholics. Although this portion of the program is fairly new there is every reason to believe that it will be a valuable adjunct and something which most communities will find useful.

The bill before us today would extend for 3 years the program of grants to assist in construction of the basic facilities included in the act. This would be funded

in the sum of $70 million a year which is the present rate of expenditure. Systems for staffing these institutions would be continued but somewhat expanded. The percentage of systems would remain the same until it reached the lowest level of 30 percent in the fourth year, and under this legislation would then be extended for 2 additional years. Facilities for alcoholism and narcotic addiction would be subject to the same terms and could be built in conjunction with a new institution or added to those already in existence. For this latter reason the funds to support this part of the program are set forth separately in the amounts of $20 million for 1971, $25 million for 1972, and $30 million for 1973.

Although it would appear that community mental health centers could use present authorities to treat mental conditions in children, it seems that there are particular problems which will make necessary in some instances different facilities and either different or additional personnel. Certainly it is highly important that the mental and emotional problems of children be given the highest priority for treatment at the community level. To make sure that this comes about specific funds are included in the amounts of $6 million for 1971, $10 million for 1972, and $15 million for 1973. I hope that as time goes on all of these various services can be treated as parts of a single institution needing no separate identification. At the present time it is probably well to have them set apart so that attention will be drawn to them and a history of their development properly kept.

One other service has been added which should increase the effectiveness of these institutions immeasurably. Aside from having the necessary facilities present in the community it can be very important in certain instances to take the services to the patient. The very matter of discovering and identifying those who need help, particularly among the young can become the most important part of the service to be offered. This bill provides the sum of $5 million for each of the 3 years to assist community mental health centers in creating consultative services. It is anticipated that one aspect of such service will be working with school systems. Although other uses may come to mind, this would no doubt be the largest user of such consultation.

We have thus far outlined the changes and additions which this bill makes in present law except in one area. It was the opinion of the committee that somewhat different formulas, both for construction and for staffing, will be necessary to successfully promote the creation of community mental health centers in poverty areas. For that reason the bill provides for 90 percent Federal funding of construction projects in poverty areas as opposed to the usual 66⅔ percent. Also in the matter of staffing a more generous formula is provided—90 percent of the staffing costs will be supported by Federal funds for the first 2 years, 80 percent of such costs for the third year, and 70 percent for the next 3 years thereafter.

The total cost of this legislation for the 3-year period is $451 million.

The Committee on Interstate and Foreign Commerce reviewed the accomplishments thus far under this act and considered many possible additions and changes as well as the appropriate level of effort. The bill before you today comes to you with the unanimous support of the committee. I recommend it to the House and urge its passage.

Mr. NELSEN. Mr. Speaker, will the gentleman yield to me?

Mr. SPRINGER. I yield to the gentleman from Minnesota.

Mr. NELSEN. Relative to the question of adequate personnel under this bill, there is a provision that will permit the directors in the various community health centers to make contacts through the schools and through the agencies where persons with natural aptitude in the way of psychology can be working with the limited personnel now working in the community health centers. The feeling of the experts is that we do not have adequate personnel, and likely will not have adequate personnel for some time. Therefore, this type of a program might spread the abilities of those we have to a wider field in the public interest.

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

Mr. NELSEN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I should like to say to the gentleman that I want to compliment him, and the House as a whole should, because this is his amendment. It has brought a new innovation into this field, which I believe is good.

I think it is wise that we use the knowledge we have now in order to spread these scarce talents as far as we can.

Mr. NELSEN. I would like to comment further that in our own State of Minnesota we have 11 centers. With regard to our State hospital, for example, the population of the insane there is way down. The number that reach the hospital are so much less today than has been true in the past. This is largely because of treatment that has been given to patients in our community health centers.

I think this program is very good and wish to congratulate the chairman and the committee for bringing out this bill.

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

Mr. STAGGERS. I am glad to yield to the gentleman.

Mr. PUCINSKI. Did the distinguished chairman say that the testimony before the committee indicated one out of 10 Americans is going to spend some part of his life before he dies in a mental institution?

Mr. STAGGERS. Yes, that was testified to before the committee. I have also read this before, and it has been said by specialists.

Mr. PUCINSKI. That would mean we would need facilities for some 20 million Americans.

Mr. STAGGERS. But not all at the same time. However, we hope to alleviate all of this and work out most of these things.

Mr. PUCINSKI. Mr. Speaker, I would like to congratulate and commend the chairman of this committee for bringing this bill to the floor.

When people ask what Congress has done this year, we should point to this legislation as one example of our varied activity. This is one of the most important bills to come before the Congress. Not only does it address itself to the problems of mental health among children and the growing problem of alcoholism and the problem of narcotics addiction but to many other pressing problems of our day.

I certainly want to associate myself with this legislation and congratulate the chairman for making it possible for us to vote on this very major piece of legislation.

Mr. STAGGERS. Mr. Speaker, I now would like to yield to the chairman of our subcommittee which handled this matter and also wish to congratulate every member of this subcommittee for bringing to the full committee a bill which is a good one and which meets an important need.

Mr. JARMAN. I thank the chairman for yielding to me.

Mr. Speaker, the bill before the House today is presented with the unanimous recommendation of the Committee on Interstate and Foreign Commerce.

This bill, H.R. 14086, amends the Community Mental Health Centers Act to extend the program of assistance under the act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts. A new program of special assistance for mental health services for children has been added in recognition of a great need.

The committee cannot urge too strongly prompt action on this bill. Our motion for immediate passage is made on several counts. First and foremost, the mental health needs of this Nation must be met and they must continue to be met on a communitywide and community-tuned basis. Second, the bill extends a community health program of outstanding and singular merit. In the words of the Assistant Secretary for Legislation, Department of Health, Education, and Welfare:

> This is . . . one program that is on target . . . a program that is strongly conceived and well executed.

And, third, the extension should be voted now, because the authorities granted by the original act in 1963 and its amendments are due to expire shortly.

I should like, very briefly, to take up those points which so impressed the committee.

As to the need for this legislation, my distinguished colleagues are already aware of the health and social needs of the Nation. We are keenly aware, for example, that mental illness and many problems related to people's mental health are among the chief cripplers of our society. The estimate is that one out of every 10 Americans, or about 20 million people, suffer from mental or emotional problems that require professional help, if they can find it. Among these are some 8 million children and their families who need special attention, treatment, or counseling. The estimate

is that alcoholism, a major mental health problem, afflicts over 5 million Americans. As for the menace of narcotic addiction, the estimate of 100,000 users of hard drugs is compounded these days by an increasing trend toward drug abuse and experimentation with narcotics among our young people.

So much for the obvious need in this country to get mental health services out to where people are, to where they live, where they work, and where they grow up. These are services for the care of the sick, for the rehabilitation of hurt and troubled lives, and for the prevention of illness and breakdown.

These are the vital tasks of the new and developing community mental health centers. In many respects, they represent the most dynamic health service program in the Nation.

In 1963, the Community Mental Health Centers Act—Public Law 88–164—was enacted in response to mounting evidence that the mentally ill have a greater chance for early recovery when treated promptly in community-based facilities near their homes. The need for services to help prevent disabling illness and disruptive problems was also underscored in testimony presented by the Nation's leading mental health authorities.

Since then, the national community mental health center program has shown extraordinary progress. Although relatively young, its growth and impact have already been extensive. Since June 1965, when the first construction grant was awarded, a total of 376 community mental health centers have been funded. These centers are being established in every State of the Union, the District of Columbia, and Puerto Rico. They are on the way to providing services in communities of every kind—ranging from inner-city ghettos to farmlands in the central plains, from middle-class suburbs to the poorest counties of Appalachia, from bustling industrial centers to sparsely populated rural regions.

Since then, we have seen a continuing decrease in the number of Americans in the Nation's mental hospitals. Thirteen years ago, that number was well in excess of one-half million. Today, there are 401,000—a reduction of nearly 30 percent. Had the rising mental hospital population seen before 1955 gone unchecked, an estimated 731,000 patients would be confined today in costly and debilitating custodial care—or almost twice the actual number.

This decrease is not due solely, of course, to the establishment of mental health centers. More than a decade of steady advances in research and treatment made it possible for many patients to be maintained in their home communities.

From the outset, the community mental health center program has been based firmly upon sound goals and premises. These include the concept that mental health services should be available to all people who live within a center's defined catchment area, regardless of their age, their ability to pay, or their life circumstances. Also included is the concept that these services must be comprehensive and coordinated. That is, each center must offer a range of five essential services for continuity of patient care, for the prevention of illness, and for the promotion of the community's mental health.

Experience with the program has demonstrated that it is a highly practical vehicle for the implementation of these goals. Its flexibility permits applications in communities of all kinds. In fact, the community mental health center has introduced a system for the delivery of health services which uses existing resources, expands them, coordinates them into a system of care, or brings entirely new services to communities where none at all existed before.

The strength of the program and its great flexibility do not rest solely upon the differing types of communities which can be served. Its flexibility is also apparent in the great variety among applicants for community mental health center grants. These have included State and local governments, charitable institutions, public and nonprofit private general hospitals, public mental hospitals, independent mental health clinics, and community mental health boards composed of interested citizens. Approximately 85 percent of the centers represent the joint efforts of two or more affiliating agencies.

While it is too soon to evaluate fully the impact of the centers, we are impressed that in a short span of 4 years they have established the capacity for bringing comprehensive mental health services within the reach of 52 million Americans. When the present authorizations expire on June 30, 1970, grants will have been awarded to approximately 450 centers, accessible to about 62 million citizens. As for the potential effectiveness of these community services, the committee heard dramatic accounts of individual achievements. These point the way to entirely new and exciting accomplishments.

Finally, as to the extension bill before the House: the legislation respectfully submitted for action today not only extends but seeks to strengthen the program.

Briefly, this is accomplished by extending all existing authorities for a period of 3 years, by raising to 6 years the period during which mental health centers may receive staffing grants, by providing preferential funding for poverty areas and alcoholism and addiction services, and by earmarking funds for these urgently needed special services, as well as special services for children. Several other provisions are also designed to strengthen the program.

The committee heard, for example, that a significant number of centers which have initiated services are finding it extremely difficult to meet the challenge of implementing their programs while at the same time having to develop adequate funding resources with which to continue the support of their services when their Federal aid expires.

The committee also heard testimony that many communities which are aware of their mental health needs have abandoned plans for centers because of their inability to marshal the necessary funds either for matching a construction grant or for staffing a center beyond the initial period of staffing support, currently limited to the center's first 51 months of operation.

Earlier estimates of Federal financial participation were optimistically based on an assumption that third-party payments for services might absorb more of the costs. These have not yet materialized to the extent anticipated.

Earlier projections also underestimated the need for greater assistance to disadvantaged communities and the need for special incentives for services to deal with alcoholism and addiction, and to meet the great needs of children.

Therefore, while the proposed bill does not change the basic concepts and goals of the community mental health service programs—nor does it seek to—important operational changes are proposed. These liberalize Federal assistance for all communities and add incentives for programs directed to the special mental health problems of the underprivileged, the alcoholic, the drug addict, and the emotionally disturbed child.

The changes also include a new provision for initiation and development grants for centers in poverty areas, a further means to improve the capability of these areas to apply for and to use Federal aid for their community mental health services. We believe that this provision, plus the preferential funding for construction and staffing grants in these areas will provide the assistance needed to equalize the availability of services to all Americans.

With regard to special services for alcoholism and narcotic addiction, the committee notes with disappointment that the alcoholism portion of the Narcotic Addiction and Alcoholism Amendments of 1968 has not yet been implemented. However, on the basis of experience in implementing community services and facilities for narcotic addicts, a provision has been included for preferential funding, starting at 80 percent, to encourage these special services connected with or operated by community mental health centers.

Impressed as it was with the preventive services being undertaken by community mental health centers in many parts of the country, and convinced that such services must have high priority, the committee has provided in the proposed bill a premium for the operation of the center's consultation and education programs. This assistance is of key importance particularly for children who can benefit from mental health consultation provided to schools, courts, and other agencies serving our youth.

In closing, I respectfully draw your attention to one of the outstanding features of the centers program which the committee feels has been a vital element in its success. I referred earlier to this as continuity of care for the mentally ill.

The concept of an integrated program of essential mental health services is a key factor in the treatment of the mentally and emotionally disturbed. It means that people can get the kind of care they need when they need it, going from in-

patient care to partial hospitalization or daycare, to outpatient care, as their condition warrants, until they are functioning well again. The capacity to coordinate and deliver this range of services within a program is no less important in treating the mentally ill than is the availability of each service itself. The means for achieving this capability is the requirement that all centers must provide a range of a minimum of five services at the time they open their doors. By extending and improving this dynamic program for the mental health of all Americans, this House will perform a great service. I move the adoption of the proposed bill.

Mr. SPRINGER. Mr. Speaker, I want to add one final word which I think is proof of the pudding, that is, is our mental patient registration in State institutions going up or down? A few years ago there were about 570,000 people incarcerated in mental institutions, that is, Federal or State mental institutions.

That figure now is down to around 400,000. Not all of that has been attributable to this act, but in my opinion a good portion of it can be. I think the progress report shown by those figures indicates the direction in which we are going under this legislation that we have brought to the floor of the House today.

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

Mr. STAGGERS. I yield to the distinguished gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentleman for yielding. I merely want to take this time to commend my colleague, the gentleman from Oklahoma (Mr. JARMAN), chairman of the subcommittee, for his fine leadership in this important field of mental health and for the splendid work that his subcommittee and the full committee have done on this bill. In my opinion it is a fine bill and I wholeheartedly support it.

Mr. Speaker, I urge approval of this legislation.

Mr. ROGERS of Florida. Mr. Speaker, I rise in support of H.R. 14086, which would amend the Community Mental Health Centers Act to extend the program of assistance under that act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts and to establish a new program for the mental health of children.

This bill would extend for an additional 3 years—through fiscal year 1972—the existing program of matching grants for the construction and professional and technical staffing support of community mental health centers, with 2 additional years of support for staffing costs. In addition, the bill extends for the same period matching construction and staffing of specialized community services for alcoholism, narcotic addiction and children's mental health.

Special incentives for community programs to meet the needs of children with mental and emotional problems are also contained in the bill as reported, as well as preferential treatment for facilities serving urban or rural poverty areas, and is intended to encourage development of new careers and use of consultation services.

The bill as reported authorizes $70 million for each of the 3 fiscal years of construction of community mental health centers; a total of $120 million for the 3 years is authorized for the professional and technical staffing; a total of $75 million for 3 years is authorized for the construction and technical and professional personnel staffing of alcoholism and narcotic addict facilities; another $31 million for 3 years is authorized to establish children's mental health programs within community mental health centers, and, finally, $15 million for the 3 years is authorized to provide consultation services through the community mental health centers.

The provisions of the bill which give additional staffing assistance to community mental health centers also apply to staffing for narcotic addict facilities, alcoholic treatment centers and programs for the mental health of children.

Mr. Speaker, since the original law was first enacted, we are making significant progress in our efforts to prevent mental illness, to cure those who suffer, and to rehabilitate them to become useful and productive citizens again.

The key to this success is the local community mental health center which can provide comprehensive mental health services in surroundings that are familiar to the patient rather than warehousing him in a State hospital many miles from his home, his family, and his friends.

Statistics show that almost three-fourths of those patients treated at community mental health centers can be cured to permit them to return to their homes within 6 to 8 weeks. Without the use of community mental health centers, the mental patient who is placed in a state hospital has only one choice in 10 of going home within the same period of time, and if that patient remains in the hospital over a year, the odds are against his ever going home.

Mental illness costs the American economy an estimated $20 billion a year in wasted manpower and job absenteeism, and immeasurable amounts in human suffering and anguish. This legislation before the House will enable us to continue and expand our fight against mental illness.

I strongly support this legislation and urge its passage, yet I would like to note some other points concerning the bill.

First, it has been brought to my attention that some of the community mental health centers which were the first to be awarded staffing grants under Public Law 89–105 will use the last of these funds in the fall of 1972 based on the additional 2 years of assistance provided in this bill. These centers are not capable of sustaining themselves with only local support and they would be faced with some 6 to 9 months without Federal staffing support unless the period for support is extended. Therefore, I am proposing that the bill adopted by the conference committee provide a total of 84 months of Federal support for professional and technical staffing, with the last 4 years at the 30-percent level.

In addition, in testimony before the subcommittee and in consultation with directors of community mental health centers, the committee has found a more workable definition of "technical" personnel is necessary to permit the community mental health centers to carry out their responsibilities. The committee intends, as part of the legislative history of these amendments, that an expanded definition of this term is essential and that the National Institute of Mental Health, in its administration of this extension of the law, should issue guidelines which will permit the centers to employ accountants, financial counselors, medical transcribers, and other similarly designated individuals whose background and education would indicate that they are to perform technical functions in the operation of the centers.

This would not include minor clerical help, maintenance, or housekeeping personnel.

Likewise, there is a need for a clearly stated definition of a "poverty area" as such pertains to the Community Mental Health Centers Act. Centers should be able to qualify for the "poverty provisions" by virtue of the total catchment area or substantial pockets of poverty within the catchment areas. The National Institute of Mental Health should issue guidelines to clarify this term.

In addition, the committee has found that the evaluation of operating community mental health centers has not been as extensive as the committee would like for future planning. In that regard, as part of the legislative history, the committee would recommend that the National Institute of Mental Health select several centers that demonstrate various approaches to service and different types of populations to extensively study the crucial variables, problems, and effectiveness of their programs.

As a corollary, with respect to site visits as both an evaluation and problem solving program, the committee has found that it would be desirable to have all future site visit teams include at least one representative from a mental health center not from the same region, and that at least one center representative sit on the Grant Review Committee at a regional level and two directors serve on the National Review Committee.

Also, it has been brought to the committee's attention that some of the States are experiencing difficulty in the administration of State construction plans. An amendment to permit a 1-year carryover of moneys for the administration of State construction plans was presented to the subcommittee and was inadvertently omitted from the bill as reported. Therefore, I am proposing that the conference committee permit a 1-year carryover of such moneys.

Finally, during subcommittee consideration of this legislation, I asked the National Association of State Mental Health Program Directors if the various State mental health authorities thought that the 314(a) and 314(b) agencies under Public Law 89–749, the Partnership for Health Act, were in a position to approve State community mental health center plans and to review projects at the areawide level.

The response to my inquiry has been received from 40 States and territories and the replies do not indicate an ad-

vanced stage of development for the 314 (a) and (b) agencies.

With respect to the 314(a) agency—the State comprehensive health planning agency—21 of those replies said the agency in their jurisdiction is sophisticated enough to approve State community mental health center plans; 19 replied in the negative.

With respect to the 314(b) agency—the areawide planning agency—19 jurisdictions said no, the areawide agencies are not yet ready; only 11 States replied in the affirmative.

I would like to insert the State-by-State replies at this point in the RECORD:

314(a), State health planning agency, is developed enough to *approve* state plan for community mental health centers:

Alabama	No.
Alaska	Yes.
Arizona	No.
Arkansas	Yes.
California	No.
Colorado	Yes.
Connecticut	No.
Delaware	No.
Florida	No.
Georgia	Yes.
Guam	No.
Hawaii	No.
Idaho	Yes.
Indiana	Yes.
Iowa	No.
Kansas	No.
Kentucky	Yes.
Maryland	Yes.
Massachusetts	Yes.
Michigan	Yes.
Minnesota	Yes.
Mississippi	Yes.
Missouri	No.
Montana	Yes.
Nevada	No.
New Hampshire	Yes.
New Jersey	Yes.
New Mexico	Yes.
New York	Yes.
Ohio	No.
Oklahoma	Yes.
Oregon	No.
South Carolina	No.
Texas	No.
Utah	Yes.
Vermont	No.
Virginia	Yes.
Washington	No.
West Virginia	Yes.
Wisconsin	No.

314(b), areawide or regional health planning agencies are developed enough to *review* project applications for community mental health centers:

Alabama	No.
Alaska	No.
Arizona	No.
Arkansas	No.
California	Yes.
Colorado	No.
Connecticut	No.
Delaware	No.
Florida	No.
Georgia	No.
Guam	No.
Hawaii	No.
Idaho	No.
Indiana	Yes.
Iowa	No.
Kansas	No.
Kentucky	No.
Maryland	Yes.
Massachusetts	No.
Michigan	No.
Minnesota	Yes.
Mississippi	Yes.
Missouri	No.
Montana	No.
Nevada	No.
New Hampshire	Yes.
New Jersey	Yes.
New Mexico	Yes.
New York	Yes.
Ohio	No.
Oklahoma	No.
Oregon	No.
South Carolina	No.
Texas	No.
Utah	Yes.
Vermont	No.
Virginia	Yes.
Washington	No.
West Virginia	No.
Wisconsin	No.

States not responding: District of Columbia, Illinois, Louisiana, Maine, Nebraska, North Carolina, North Dakota, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Tennessee, Virgin Islands, Wyoming.

Mr. TIERNAN. Mr. Speaker, I rise in support of the Community Health Centers Amendments of 1969. In 1963, this landmark legislation was enacted in response to mounting evidence that the mentally ill have a greater chance of early recovery when treated promptly in community-based facilities located near their homes. Impressive and effective work has been accomplished by these centers, in fact, in many respects it is one of the most vital and dynamic health service programs in the Nation.

Since only a small number of centers have yet been in operation for a year or more, it is too early to evaluate the true impact these services are having. However, the longtime goal of the community mental health centers program is the establishment of a network of comprehensive mental health services that will serve the total population of the United States. This potential can be realized only with an adequate base of resources for planning, initiating, and developing the quality of programs essential to assure the equitable provision of services to all communities.

As we know, narcotic addiction, drug abuse, alcoholism, and emotional illness are growing problems in our country. Let us rise to meet them.

I urge my colleagues to join with me in support of this measure.

The SPEAKER. The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 14086, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 2523) to amend the Community Mental Health Centers Act to extend and improve the program of assistance under that act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill as follows:

S. 2523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Community Mental Health Centers Amendments of 1969".

TITLE I—GRANTS FOR CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS, EXTENSION OF DURATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 201 of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended (1) by striking the word "and" which appears immediately before "$70,000,000", and (2) by inserting immediately before the period at the end thereof the following: ", $95,000,000 for the fiscal year ending June 30, 1971; $115,000,000 for the fiscal year ending June 30, 1972; and $115,000,000 for the fiscal year ending June 30, 1973.

(b) Section 207 of such Act (42 U.S.C. 2687) is amended by striking out "1970" and inserting in lieu thereof "1973".

ALLOTMENTS TO STATES: INCLUSION OF TRUST TERRITORY

SEC. 102. (a) The first sentence of subsection (a) of section 202 of such Act (42 U.S.C. 2682) is amended by striking out "and Guam," and inserting in lieu thereof "Guam, and the Trust Territory of the Pacific Islands,".

(b) The second sentence of such subsection (a) is amended by inserting after "State" the first time it appears ", other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands,".

(c) Such subsection (a) is further amended by adding at the end thereof the following new sentence: "Sums so allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it for such purpose for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years."

(d) Section 401(a) of such Act (42 U.S.C. 2691(a)) is amended by inserting immediately before the period at the end thereof the following: "; and, for purposes of this title and title II only, includes the Trust Territory of the Pacific Islands".

(e) The amendments made by this section shall be effective with respect to allotments under section 202 from funds appropriated for fiscal years beginning after June 30, 1970.

PERCENTAGE OF ALLOTMENTS AVAILABLE FOR STATE PLAN ADMINISTRATION

SEC. 103. (a) Effective with respect to expenditures referred to in paragraph (1) of subsection (c) of section 403 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 made after June 30, 1970, such paragraph (42 U.S.C. 2693) is amended by striking out "2 per centum" and inserting in lieu thereof "5 per centum".

(b)(1) The first sentence of section 403(c)(1) of such Act is further amended—

(A) by inserting "for any fiscal year" immediately after "title II";

(B) by striking out "during such year";

(C) by striking out "for a year" and inserting in lieu thereof "for any fiscal year"; and

(D) by striking out "for such year".

(2) Section 403(c)(1) of such Act is further amended by inserting immediately after the first sentence thereof the following new sentence: "Amounts made available to any State under this paragraph from its allotment or allotments under part A of title II for any fiscal year shall be available only

for such expenditures (referred to in the preceeding sentence) during such fiscal year or the following fiscal year."

COST OF LAND INCLUDED IN COST OF CONSTRUCTION

SEC. 104. Effective with respect to projects approved after June 30, 1970, under title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, section 401(e) of such Act is amended by striking out "architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land" and inserting in lieu thereof "architect's fees and the cost of the acquisition of land, but excluding the cost of offsite improvements."

FEDERAL SHARE TO BE MAXIMUM; HIGHER SHARE FOR DISADVANTAGED AREAS

SEC. 105. Effective with respect to projects approved after June 30, 1970, under part A of title II of such Act—

(1) section 402 of such Act (42 U.S.C. 2692) is amended by striking out "or title II";

(2) subsection (h) of section 401 of such Act is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, by inserting "(1)" after "(h)", by inserting "approved under part C of title I" after "with respect to any project", and by adding at the end thereof the following new paragraph:

"(2)(A) The term 'Federal share' with respect to any project approved under part A of title II means the portion of the cost of construction of such project to be paid by the Federal Government under such part A.

"(B) The Federal share with respect to any project approved thereunder in the State shall, except as provided in paragraph (3), be an amount equal to 66⅔ per centum, or the Federal percentage for the State, if lower, or such lesser amount as may be determined by the State agency designated in the State plan. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method of determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determining the actual Federal share for such projects in such State approved during such fiscal year shall not be changed after such written approval has been given.

"(3) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under part A of title II, provide services for persons in an area designated by the Secretary as a rural or urban poverty area, the maximum Federal share shall be equal to such per centum of the costs of the construction of the project as may be determined by the State, except that such per centum shall not exceed 90 per centum."

PERIOD FOR PROMULGATING FEDERAL PERCENTAGES

SEC. 106. Section 401(j)(1) of such Act is amended by striking out "August 31" and inserting in lieu thereof "September 30".

TITLE II—GRANTS FOR OPERATION OF COMMUNITY MENTAL HEALTH CENTERS

FEDERAL SHARE

SEC. 201. Effective with respect to costs of establishment and operation of any center, for any period after June 30, 1970, for which a grant has been or is made under subsection (a) of section 220 of the Community Mental Health Centers Act (42 U.S.C. 2688), subsection (b) of such section is amended to read as follows:

"(b) Grants for such costs for any center under this part (other than grants made from funds made available under section 224(b)) may not exceed—

"(1) except as provided in paragraph (2), 75 per centum of the costs for each of the first two years after the first day of the first month for which such grant is made with respect to such center, 60 per centum of such costs for the third year after such first day, 45 per centum of such costs for the fourth year after such first day, 30 per centum of such costs for each of the next six years after such first day; and

"(2) in the case of grants to any center which provides services for persons in an area designated by the Secretary as a rural or urban poverty area, 90 per centum of such costs for each of the first two years after the first day of the first month for which such grant is made with respect to such center, and 75 per centum of such costs for each of the next eight years such first day. No grant shall be made under this section, in the case of any center referred to in paragraph (1), for any period of time which is later than the last year referred to in paragraph (1), or, in the case of any center referred to in paragraph (2), for any period of time which is later than the last year referred to in paragraph (2)."

INITIATION AND DEVELOPMENT OF SERVICES

SEC. 202. (a) Section 224 of such Act (42 U.S.C. 2688d) is amended (1) by inserting "(a)" immediately after "SEC. 224." and (2) by adding at the end thereof the following new subsection (b):

"(b) Not to exceed 5 per centum of the amount appropriated for grants pursuant to subsection (a) for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of projects, in areas designated by the Secretary as rural or urban poverty areas, for assessing local needs for mental health services, designing mental health service programs, obtaining local financial and professional assistance and support for community health services, and fostering community involvement in initiating and developing community mental health services. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project."

(b) Section 221(a) of such Act (42 U.S.C. 2688a) is amended (1) by striking out "and" at the end of paragraph (4), (2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and (3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of a grant from funds made available pursuant to section 224(b), the Secretary is satisfied, upon the basis of evidence supplied by the applicant, that persons broadly representative of all elements of the population of the area will be given an opportunity to participate in the project with respect to which application for such grant is made."

MAINTENANCE OF EFFORT

SEC. 203. (a) Paragraph (4) of such subsection (a) of section 221 of the Community Mental Health Centers Act (42 U.S.C. 2688a) is amended to read as follows:

"(4) the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in services that would otherwise be provided, and (B) Federal funds made available under this part for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds, including third party health insurance payments, that would in the absence of such Federal funds be made available for the program described in paragraph (2) of this subsection; and".

(b) Section 221(a) of such Act (42 U.S.C. 2688a) is further amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of paragraph (2) of this subsection, the requirement therein with respect to essential elements of comprehensive mental health services shall not apply, in the case of an application for a grant to any center which will provide services in an area designated by the Secretary as an urban or rural poverty area, for the eighteen-month period commencing on the date such application is filed, if the Secretary is satisfied that such center will meet such requirement prior to the end of such period."

CONTINUATION GRANTS

SEC. 204. Section 221(b) of such Act (42 U.S.C. 2688a) is amended by striking out "1970" each place it appears and inserting in lieu thereof "1973".

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. (a) The first sentence of section 224(a) of such Act (42 U.S.C. 2688d), as amended by section 202(a) of this Act, is amended (1) by striking out the word "and" which appears immediately after "1969" and (2) by inserting immediately after "1970," the following: "$60,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, and $80,000,000 for the fiscal year ending June 30, 1973."

(b) The second sentence of section 224(a) of such Act (42 U.S.C. 2688d), as amended by section 202(a) of this Act, is amended by striking out "seven" and inserting in lieu thereof "fifteen".

STAFFING, OPERATION, AND MAINTENANCE GRANTS FOR CENTERS

SEC. 206. (a) Effective with respect to costs of operation of any center, for any period beginning after June 30, 1970, for which a grant has been or is made under subsection (a) of section 220 of the Community Mental Health Centers Act (42 U.S.C. 2688), such subsection is amended by striking out "a portion of the costs (determined pursuant to regulations under section 223) of compensation of professional and technical personnel for the initial operation" and inserting in lieu thereof "a portion of the costs determined pursuant to regulations under section 223 of operation, staffing, and maintenance".

(b) The heading of part B of such Act (42 U.S.C. 2688 et seq.) is amended to read as follows:

"GRANTS FOR INITIAL COSTS OF OPERATION OF CENTERS"

TITLE III—ALCOHOLISM AND NARCOTIC ADDICT REHABILITATION

EXTENSION OF PROGRAMS FOR FACILITIES FOR ALCOHOLICS AND NARCOTIC ADDICTS

SEC. 301. (a) Section 261(a) of such Act (42 U.S.C. 2688o) is amended by striking out "and $25,000,000 for the next fiscal year" and inserting in lieu thereof "$25,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $30,000,000 for the fiscal year ending June 30, 1972".

(b) Subsection (a) of such section 261 is further amended by inserting before the period at the end of the first sentence the following: "and section 246".

(c) Section 261 of such Act is further amended by adding at the end thereof the following new subsection (c):

"(c)(1) Not to exceed 5 per centum of the amount appropriated pursuant to the preceding provisions of this section for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of projects for assessing local needs for programs of services for alco-

holics or narcotic addicts, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvement in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

"(2) A grant under this subsection with respect to any project may be made only if the Secretary is satisfied, upon the basis of evidence supplied by the applicant, that persons broadly representative of all elements of the population of the area will be given an opportunity to participate in the development of the project with respect to which application for such grant is made."

(d) Subsection (b) of such section 261 is amended by striking out "three" and inserting in lieu thereof "ten", and by striking out "for the fiscal year ending June 30, 1969, or the fiscal year ending June 30, 1970" and inserting in lieu thereof "for any fiscal year ending prior to July 1, 1972".

CONSTRUCTION GRANTS; ALCOHOLISM AND NARCOTIC ADDICTION

SEC. 302. Effective with respect to the cost of construction of any facility, for any period beginning after June 30, 1970, for which a grant from appropriations under section 261 of such Act has been or is made, subsection (b) of section 241 of such Act, subsection (d) of section 243 of such Act, and subsection (b) of section 251 of such Act are each amended by striking out "66⅔" and inserting in lieu thereof "90".

STAFFING, OPERATION, AND MAINTENANCE GRANTS; ALCOHOLISM AND NARCOTIC ADDICTION

SEC. 303. (a)(1) Effective with respect to the costs of operation of any facility, for any period after June 30, 1970, for which a grant from appropriations under section 261 of such Act has been or is made, subsection (a) of section 242 of such Act is amended by striking out "a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the initial operation" and inserting in lieu thereof "a portion of the costs (determined pursuant to regulations of the Secretary) for operating, staffing, and maintenance".

(2) Effective with respect to the costs of operation of any facility, for any period beginning after June 30, 1970, for which a grant from appropriations under section 261 of such Act has been or is made, subsection (a) of section 243 of such Act is amended by striking out "compensation of professional and technical personnel" and inserting in lieu thereof "operation, staffing, and maintenance", and subsection (c) of such section is amended by striking out "compensation of professional and technical personnel" and inserting in lieu thereof "operation, staffing, and maintenance".

(3) Effective with respect to the costs of operation of any facility, for any period beginning after June 30, 1970, for which a grant from appropriations under section 261 of such Act has been or is made, subsection (a) of section 251 of such Act is amended by striking out "the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation" and inserting in lieu thereof "the costs, determined pursuant to regulations of the Secretary, for the staffing, operation and maintenance", and subsection (c) of such section 251 is amended by striking out "Grants made under subsection (a) for the cost of compensation of professional and technical personnel" and inserting in lieu thereof "Grants made under subsection (a) for the costs of operating such facilities".

(b) Effective with respect to costs of establishment and operation of any facility for any period after June 30, 1970, for which a grant has been or is made under subsection (a) of section 242, 243, or 251 of the Community Mental Health Centers Act (42 U.S.C. 2688g, 2688h, 2688k), subsection (b) of section 242 of such Act is amended to read as follows:

"(b) Grants for such costs for any facility under this section may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of ten years after such first day; and such grant with respect to any facility may not exceed 90 per centum of such costs for each of the first two years after the first day of the first month for which such grant is made with respect to such facility, and 75 per centum of such costs for each of the next eight years after such first day."

DIRECT GRANTS FOR SPECIAL PROJECTS; ALCOHOLISM

SEC. 304. Part C of the Community Mental Health Centers Act is amended by redesignating section 246 as section 247, and adding after section 245 a new section 246 to read as follows:

"DIRECT GRANTS FOR SPECIAL PROJECTS

"SEC. 246. The Secretary is authorized during the period beginning July 1, 1970, and ending June 30, 1972, to make grants to any public or nonprofit private agency or organization to cover part or all of the cost of (A) developing specialized training programs or materials relating to the provision of public health services for the prevention or treatment of alcoholism, or developing inservice training or short-term or refresher courses with respect to the provision of such services; (B) training personnel to operate, supervise, and administer such services; (C) conducting surveys and field trials, to evaluate the adequacy of the programs for the prevention and treatment of alcoholism within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (D) programs for treatment and rehabilitation of alcoholics which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such alcoholics."

DIRECT GRANTS FOR SPECIAL PROJECTS; NARCOTIC ADDICTS

SEC. 305. (a) Section 252 of the Community Mental Health Centers Act is amended (1) by striking out "1970" and inserting in lieu thereof "1972", (2) by striking out "and" at the end of clause (B), and (3) by adding immediately before the period at the end thereof the following: "; and (D) programs for treatment and rehabilitation of narcotic addicts which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such narcotic addicts".

(b) The heading to such section 252 is amended to read as follows: "DIRECT GRANTS FOR SPECIAL PROJECTS".

TITLE IV—MENTAL HEALTH OF CHILDREN

CONSTRUCTION AND STAFFING OF TREATMENT FACILITIES

SEC. 401. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

"PART F—MENTAL HEALTH OF CHILDREN

"GRANTS FOR TREATMENT FACILITIES

"SEC. 271. (a) Grants from appropriations under section 272(a) may be made to public or nonprofit private agencies and organizations (A) to assist them in meeting the costs of construction of facilities to provide mental health services for children within the States, and (B) to assist them in meeting the costs, determined pursuant to regulations of the Secretary, of the staffing, operation, and maintenance of (i) facilities providing such services which were constructed with grants made under this part or part A, or (ii) existing facilities which provide new mental health services for children.

"(b) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A of the Act except to the extent, in the judgment of the Secretary, special considerations make differences appropriate; but (1) before the Secretary may make a grant under such subsection for the construction of a facility for the provision of mental health services to children he must find that the application for such grant meets the requirements of section 205(a)(5) (relating to the payment of prevailing wages), and (2) the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 90 per centum as the Secretary may determine.

"(c) Grants for the costs of staffing, operation, and maintenance of facilities providing mental health services to children, authorized by subsection (a) of this section, may not exceed 90 per centum of such costs for each of the first two years after the first day of the first month for which such grant is made with respect to such facility, and 75 per centum of such costs for each of the next eight fiscal years after such first day. No grants may be made for any period of time which is later than the last year referred to in this subsection.

"(d) Grants may be made under this section only with respect to (1) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (2) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of children.

"(e) No grant shall be made under this section with respect to any facility unless the applicant for such grant provides assurance satisfactory to the Secretary that such facility will make available a full range of treatment, liaison, and follow-up, services (as prescribed by the Secretary) for all children and their families in the service area of such facility who need such services, and will, when so requested, provide consultation and education for personnel of all schools and other community agencies serving children in such area.

"SEC. 272. (a) There are authorized to be appropriated $18,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $45,000,000 for the fiscal year ending June 30, 1973, for grants authorized under this part.

"(b) There are also authorized to be appropriated for the fiscal year ending June 30, 1971, and for each of the next thirteen fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which a staffing operation and maintenance grants was made under this section for any fiscal year ending before July 1, 1973".

TITLE V—MISCELLANEOUS

APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

SEC. 501. (a) Section 303(b) (42 U.S.C. 242a) of the Public Health Service Act is amended by inserting after the words "subsection (a)" the following: "or under title

II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended".

(b) Part E of the Community Mental Health Centers Act, as amended, is amended by adding a new section 264 at the end thereof to read as follows:

"APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

"SEC. 264. Grants under this title may be made only upon recommendation of the National Advisory Mental Health Council, established by section 217(a) (42 U.S.C. 218 (a)) of the Public Health Service Act."

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike out all after the enacting clause of S. 2523 and insert in lieu thereof the provisions of H.R. 14086, as passed.

The amendment 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. 14086) was laid on the table.

EXTENSION OF INTERSTATE OIL AND GAS COMPACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to vacate the proceedings by which the Senate joint resolution (S.J. Res. 54) was amended, read a third time, and passed, and for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

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

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 54

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to an extension and renewal for a period of two years from September 1, 1969, to September 1, 1971, of the interstate compact to conserve oil and gas, which was signed in the city of Dallas, Texas, the 16th day of February, 1935, by the representatives of Oklahoma, Texas, California, and New Mexico, and at the same time and place was signed by the representatives, as a recommendation for approval to the Governors and Legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which prior to August 27, 1935, was presented to and approved by the Legislatures and Governors of the States of New Mexico, Kansas, Oklahoma, Illinois, Colorado, and Texas, and which so approved by the six States last above-named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented to by the Congress for successive periods, without interruption, the last extension being for the period from September 1, 1967, to September 1, 1969, consented to by Congress by Public Law Numbered 90–185, Ninetieth Congress, approved December 11, 1967. The agreement to extend and renew said compact for a period of four years from September 1, 1967, to September 1, 1971, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming, has been deposited in the Department of State of the United States, and reads as follows:

"AN AGREEMENT TO EXTEND THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"Whereas, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed 'An Interstate Compact to Conserve Oil and Gas' which was thereafter formally ratified and approved by the State of Oklahoma, Texas, New Mexico, Illinois, Colorado, and Kansas, the original of which is now on deposit with the Department of State of the United States, a true copy of which follows:

"'AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"'ARTICLE I

"'This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

"'ARTICLE II

"'The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

"'ARTICLE III

"'Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

"'(a) The operation of any oil well with an inefficient gas-oil ratio.

"'(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

"'(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

"'(d) The creation of unnecessary fire hazards.

"'(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

"'(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

"'The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

"'ARTICLE IV

"'Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

"'ARTICLE V

"'It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

"'ARTICLE VI

"'Each State joining herein shall appoint one representative to a commission hereby constituted and designated as "The Interstate Oil Compact Commission", the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection.

"'The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

"'No action shall be taken by the Commission except: (1) by the affirmative votes of the majority of the whole number of compacting States represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting States at said meeting, such interest to be determined as follows: such vote of each State shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting States during said period.

"'ARTICLE VII

"'No State by joining herein shall become financially obligated to any other State, nor shall the breach of the terms hereof by any State subject such State to financial responsibility to the other States joining herein.

"'ARTICLE VIII

"'This compact shall expire September 1, 1937. But any State joining herein may, upon sixty (60) days notice, withdraw herefrom.

"'The representatives of the signatory States have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory states.

"'This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing State may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.'

"Whereas, the said Interstate Compact to Conserve Oil and Gas has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1967; and

"Whereas, it is desired to renew and extend the said Interstate Compact to Conserve Oil and Gas for a period of four (4) years from September 1, 1967, to September 1, 1971:

"Now, therefore, this writing witnesseth:

"It is hereby agreed that the Compact entitled 'An Interstate Compact To Conserve Oil and Gas' executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, a correct copy of which appears above, be, and the same hereby is, extended for a period of four (4) years from September 1, 1967, its present date of expiration, to September 1, 1971. This agreement shall become effective when executed, ratified, and approved as provided in Article I of the original Compact.

"The signatory States have executed this agreement in a single original which shall be deposited in the archives of the Department

of State of the United States and a duly certified copy thereof shall be forwarded to the Governor of each of the signatory States. Any oil-producing state may become a party hereto by executing a counterpart of this agreement to be similarly deposited, certified, and ratified.

"Executed by the several undersigned states, at their several state capitols, through their proper officials on the dates as shown, as duly authorized by statutes and resolutions, subject to the limitations and qualifications of the acts of the respective State Legislatures.

"THE STATE OF ALABAMA
"By GEORGE C. WALLACE, Governor
"Dated: Aug. 11, 1966
"Attest: Mrs. AGNES BAGGETT, Secretary of State (Seal)

"THE STATE OF ALASKA
"By WILLIAM A. EGAN, Governor
"Dated: July 13, 1966
"Attest: HUGH J. WADE, Secretary of State (Seal)

"THE STATE OF ARIZONA
"By SAMUEL P. GODDARD, Governor
"Dated: March 8, 1966
"Attest: WESLEY BOLIN, Secretary of State (Seal)

"THE STATE OF ARKANSAS
"By ORVAL E. FAUBUS, Governor
"Dated: May 3, 1966
"Attest: KELLY BRYANT, Secretary of State (Seal)

"THE STATE OF COLORADO
"By JOHN A. LOVE, Governor
"Dated: January 13, 1966
"Attest: BYRON A. ANDERSON, Secretary of State (Seal)

"THE STATE OF FLORIDA
"By HAYDON BURNS, Governor
"Dated: June 28, 1966
"Attest: TOM DAVIS, Secretary of State (Seal)

"THE STATE OF ILLINOIS
"By OTTO KERNER, Governor
"Dated: January 24, 1966
"Attest: PAUL POWELL, Secretary of State (Seal)

"THE STATE OF INDIANA
"By RODGER D. BRANIGIN, Governor
"Dated: May 31, 1966
"Attest: JOHN D. BOTTORFF, Secretary of State (Seal)

"THE STATE OF KANSAS
"By WM. H. AVERY, Governor
"Dated: December 1, 1965
"Attest: PAUL R. SHANAHAN, Secretary of State (Seal)

"THE STATE OF KENTUCKY
"By EDWARD T. BREATHITT, Governor
"Dated: 6–6–66
"Attest: THELMA L. STOVALL, Secretary of State (Seal)

"THE STATE OF LOUISIANA
"By JOHN J. McKEITHEN, Governor
"Dated: November 22, 1965
"Attest: WADE O. MARTIN, Jr., Secretary of State (Seal)

"THE STATE OF MARYLAND
"By J. MILLARD TAWES, Governor
"Dated: October 10, 1966
"Attest: LLOYD L. SIMPKINS, Secretary of State (Seal)

"THE STATE OF MICHIGAN
"By GEORGE ROMNEY, Governor
"Dated: 5/19/66
"Attest: JAMES M. HARE, Secretary of State (Seal)

"THE STATE OF MISSISSIPPI
"By PAUL B. JOHNSON, Governor
"Dated: April 27, 1966
"Attest: HEBER LADNER, Secretary of State (Seal)

"THE STATE OF MONTANA
"By TIM BABCOCK, Governor
"Dated: Feb. 14, 1966
"Attest: FRANK MURRAY, Secretary of State (Seal)

"THE STATE OF NEBRASKA
"By FRANK B. MORRISON, Governor
"Dated: Jan. 31, 1966
"Attest: FRANK MARSH, Secretary of State (Seal)

"THE STATE OF NEVADA
"By GRANT SAWYER, Governor
"Dated: June 17, 1966
"Attest: JOHN KOONTZ, Secretary of State (Seal)

"THE STATE OF NEW MEXICO
"By JACK M. CAMPBELL, Governor
"Dated: Nov. 8, 1965
"Attest: ALBERTA MILLER, Secretary of State (Seal)

"The STATE OF NEW YORK
"By NELSON A. ROCKEFELLER, Governor
"Dated: Nov. 28, 1966
"Attest: JOHN P: LOMENZO, Secretary of State (Seal)

"THE STATE OF NORTH DAKOTA
"By WILLIAM L. GUY, Governor
"Dated: Dec. 19, 1966
"Attest: BEN MEIER, Secretary of State (Seal)

"THE STATE OF OHIO
"By JAMES A. RHODES, Governor
"Dated: July 25, 1966
"Attest: TED W. BROWN, Secretary of State (Seal)

"THE STATE OF OKLAHOMA
"By HENRY BELLMON, Governor
"Dated: November 15, 1965
"Attest: JAMES M. BULLARD, Secretary of State (Seal)

"THE COMMONWEALTH OF PENNSYLVANIA
"By WILLIAM W. SCRANTON, Governor
"Dated: Sept. 16, 1966
"Attest: W. STUART HELM, Secretary of the Commonwealth (Seal)

"THE STATE OF SOUTH DAKOTA
"By NILS A. BOE, Governor
"Dated: Sept. 20, 1966
"Attest: ALMA LARSON, Secretary of State (Seal)

"THE STATE OF TENNESSEE
"By FRANK G. CLEMENT, Governor
"Dated: 4–18–66
"Attest: JOE C. CARR, Secretary of State (Seal)

"THE STATE OF TEXAS
"By JOHN CONNALLY, Governor
"Dated: October 11, 1965
"Attest: CRAWFORD C. MARTIN, Secretary of State (Seal)

"THE STATE OF UTAH
"By CALVIN L. RAMPTON, Governor
"Dated: 4/11/66
"Attest: CLYDE L. MILLER, Secretary of State (Seal)

"THE STATE OF WEST VIRGINIA
"By HULETT C. SMITH, Governor
"Dated: July 14, 1966
"Attest: ROBERT D. BAILEY, Secretary of State (Seal)

"The STATE OF WYOMING
"By CLIFFORD P. HANSEN, Governor
"Dated: Jan. 18, 1966
"Attest: THYRA THOMPSON, Secretary of State (Seal)

SEC. 2. The Attorney General of the United States shall continue to make an annual report to Congress, as provided in section 2 of Public Law 185, Eighty-fourth Congress, for the duration of the Interstate Compact to Conserve Oil and Gas to whether or not the activities of the State under the provisions of such compact have been consistent with the purposes as set out in article V of such compact.

SEC. 3. The right to alter, amend, or repeal the provisions of the first section of this joint resolution is hereby expressly reserved.

The Senate joint resolution 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.

TO EXTEND AUTHORITY TO MAKE FORMULA GRANTS TO SCHOOLS OF PUBLIC HEALTH

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14790) to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health, as amended.

The Clerk read as follows:

H.R. 14790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309(c) of the Public Health Service Act is amended by striking out "$5,000,000 for the fiscal year ending June 30, 1968, $6,000,000 for the fiscal year ending June 30, 1969, and $7,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof: "$7,000,000 for the fiscal year ending June 30, 1970, $7,000,000 for the fiscal year ending June 30, 1971, $9,000,000 for the fiscal year ending June 30, 1972, and $12,000,000 for the fiscal year ending June 30, 1973".

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, this bill was reported from the committee unanimously, and provides a 3-year extension of the program which has been in effect since 1958 under which grants are made to schools of public health. This program of grants was established in order to reimburse these schools for a portion of their costs incurred in training federally sponsored students.

Under other authorities contained in the Public Health Service Act, the Public Health Service makes grants to schools of public health to pay a portion of the costs of establishing and maintaining at those schools courses of instruction which are of particular interest to the Federal Government, such as the field of public sanitation, immunizations, air pollution, and other environmental problems, and the like. In addition, the United States pay the tuition and other costs incurred by students at these schools on fellowships provided by the United States. Since tuition payments to schools virtually never cover full costs to the schools of the education furnished of the courses of study pursued, these Federal fellowships, in a sense, require that the schools use their own funds to subsidize Federal programs. This legislation is designed, therefore, to reimburse these schools for a portion of these excess costs which they incur as the result of Federal programs.

As our report points out, the number of students at these schools has increased substantially in recent years, partially as the result of this program, although we are still a long way from having adequite supplies of manpower.

At the hearings all witnesses were in favor of the objectives of the bill, the committee was unanimous in reporting it to the House, and we urge its passage.

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

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I would ask the gentleman from West Virginia if the administration did not suggest an extension of 1 year for this program?

Mr. STAGGERS. Mr. Speaker, the answer to the question asked by the gentleman from Iowa is that, yes, they did.

Mr. GROSS. But it is being extended for 3 years at a substantially increased cost; is that not true?

Mr. STAGGERS. No, not at a substantially increased cost. But this occurred after the witnesses and others who appeared before the committee, this was the reason this was done.

Mr. GROSS. It is $7 million for fiscal 1970?

Mr. STAGGERS. That is right.

Mr. GROSS. Have not 6 months of fiscal year 1970 already gone into history?

Mr. STAGGERS. That appropriation bill has already passed the House, and I am sure that the program will be covered by that appropriation bill as finally passed. But I might say to the gentleman that most of these appropriations have not come up to this year's authorization level.

Mr. SPRINGER. Mr. Speaker, in the past when one thought about public health, if he did at all, he thought of the local doctor who carried the title of public health officer and whose job was to tack up quartantine notices. Here and there was a county nurse who roamed the countryside and helped where she could with indigents and shutins. That was public health activity—all of it. Certainly the health legislation and the new and expanding programs which have been brought into being over the last 8 to 10 years have changed that picture entirely. One example is the partnership for health program, originally called the comprehensive health program, which consolidated 16 separate and different public health activities into one integrated program which must be administered at local levels.

Now we are at long last concerned with the improvement of our environment. This will require local machinery and by the same token more and better technicians who are dedicated to and understand the broad problems of environmental improvement.

Where do we get such professionals and technicians? They do not grow on trees. They must be trained in our colleges for this work. Those training centers are known as schools of public health. Ten years ago there were 11 such schools located within some of the large universities. There were then about 1,200 students enrolled. With the modest help provided by this act enrollments have reached 3,500 and the number of schools 16.

The schools themselves have found it necessary to constantly change and upgrade curriculum as the field of public health has expanded. With urbanization and increasing population there is no doubt that demand and real need for all public health services will grow.

H.R. 14790 extends for 3 years the program to assist schools of public health with formula grants. As reported the bill provides funds for the next 3 fiscal years in the sums of $7 million, $9 million, and $12 million.

I recommend the legislation to my colleagues.

Mr. Speaker, may I say that we have a policy of no program being over 3 years, and that it is our feeling that for a program to be successful it must be extended for at least 3 years so that planning can be accomplished, and that is the reason for the 3-year program.

Mr. JARMAN. Mr. Speaker, we have before us today, H.R. 14790, the bill which I introduced to amend the Public Health Service Act to extend for an additional period the authority to make formula grants to schools of public health.

At hearings, on November 13, before the Subcommittee on Public Health and Welfare, of which I am chairman, there was unanimous agreement among the witnesses that this program should be continued. We heard of the progress that has been made, since the inception of this grant support, in strengthening the Nation's public health training resources.

Mr. Speaker, during the 10 years that this program has been in effect it has stimulated the expansion and development of schools of public health—in number, in enrollments, and in the degree of technical assistance they have rendered to their communities.

When this program was first authorized in 1958, there were only 11 schools of public health. This year there are 16. In my own State of Oklahoma a new school was accredited in 1967 at the University of Oklahoma. The most recently established school is in a neighboring State—at the University of Texas at Houston; it was accredited this year.

Enrollments in schools of public health have nearly tripled since the beginning of this program.

These support grants to schools of public health have provided an extremely important resource in assisting the schools to meet the challenge of training the professional personnel required for today's changing and expanding community and environmental health programs.

In the decade since these grants have been available, the schools have undergone extensive changes, reorienting their teaching programs to be more acutely attuned to current problems. They are revising their academic programs in keeping with new technologies and new patterns for the delivery of health services.

The schools have responded with a readiness to meet new and emerging health needs—of their communities and of the Nation.

Schools of public health prepare the majority of the graduate public health specialists for services throughout the country. More than 90 percent of graduates enter public service. They hold key posts in local, city, State, national, and international health agencies.

We can take pride in the many accomplishments under this program. Nevertheless, still greater efforts are required.

There are still critical shortages of professional public health manpower. If these shortages are to be alleviated, schools must be strengthened, expanded, and new schools must be encouraged.

The bill which we are considering today extends for 3 years—fiscal year 1971 through fiscal year 1973—the authority of section 309(c) of the Public Health Service Act for these formula grants to schools of public health to assist the schools in providing comprehensive professional public health training, specialized consultative services, and technical assistance in the fields of public health and in the administration of State or local public health programs. The bill would provide appropriation authorizations of $7 million in fiscal year 1971, $9 million in fiscal year 1972, and $12 million in fiscal year 1973.

Schools of public health must continue to improve and expand their programs to meet the tremendous demands of today's health programs.

Costs of education have been rising sharply, and the schools have been struggling under increasing responsibilities. It is likely that before the expiration of this legislation, at least two new schools of public health will be established. The increases in funding which this bill authorizes are necessary to sustain and expand the efforts of the present schools and at the same time to assist the new schools in undertaking their responsibilities.

The formula grant has proved an effective mechanism for providing the schools of public health—and hence the Nation—with the means to improve and expand public health training to meet the requirements of changing and emerging health problems.

The continuation of this program of assistance to schools of public health is important to the national effort to increase and improve the health resources of this Nation. I urge the enactment of H.R. 14790.

The SPEAKER. The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 14790, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 2809) to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health, project grants for graduate training in public health, and traineeships for professional public health personnel.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2809

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That section 309(c) of the Public Health Service Act is amended by striking out "$5,000,000 for the fiscal year ending June 30, 1968, $6,000,000 for the fiscal year ending June 30, 1969, and $7,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof: "$7,000,000 for the fiscal year ending June 30, 1970, $9,000,000 for the fiscal year ending June 30, 1971, $12,000,000 for the fiscal year ending June 30, 1972, $15,000,000 for the fiscal year ending June 30, 1973, $18,000,000 for the fiscal year ending June 30 1974, and $20,000,000 for the fiscal year ending June 30, 1975".

SEC. 2. Section 309(a) of the Public Health Service Act is amended by striking out "and $12,000,000 for the fiscal year ending June 30, 1971" and inserting in lieu thereof: "$15,000,000 for the fiscal year ending June 30, 1971, $18,000,000 for the fiscal year ending June 30, 1972, $21,000,000 for the fiscal year ending June 30, 1973, $24,000,000 for the fiscal year ending June 30 1974, and $27,000,000 for the fiscal year ending June 30, 1975".

SEC. 3. Section 306(a) of the Public Health Service Act is amended by striking out "and $14,000,000 for the fiscal year ending June 30, 1971" and inserting in lieu thereof: "$14,000,000 for the fiscal year ending June 30, 1971, $18,000,000 for the fiscal year ending June 30, 1972, $22,000,000 for the fiscal year ending June 30, 1973, $26,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975".

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of S. 2809 and insert in lieu thereof the provisions of H.R. 14790, as passed by the House.

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. 14790) was laid on the table.

HEALTH SERVICES FOR DOMESTIC AGRICULTURAL MIGRANTS

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14733) to amend the Public Health Service Act to extend the program of assistance for health services for domestic migrant agricultural workers and for other purposes.

The Clerk read as follows:

H.R. 14733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 310 of the Public Health Service Act (42 U.S.C. 242h) is amended (1) by striking out "and" after "next fiscal year," and (2) by inserting after "June 30, 1970," the following: "$20,000,000 for the fiscal year ending June 30, 1971, $25,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973,".

(b) Such section is further amended by adding at the end thereof the following new sentence: "The Secretary may also use funds appropriated under this section to provide health services to persons (and their families) who perform seasonal agricultural services similar to the services performed by domestic agricultural migratory workers if the Secretary finds that the provision of health services under this sentence will contribute to the improvement of the health conditions of such migratory workers and their families."

(c) Such section is further amended by striking out "to improve health services for and the health conditions of" in clause (1) (ii) and inserting in lieu thereof "to improve and provide a continuity in health services for and to improve the health conditions of".

(d) Such section is further amended by inserting "(including allied health professions personnel)" after "training persons" each place it appears in clause (1).

(e) Such section is further amended (1) by striking out "Surgeon General" and inserting in lieu thereof "Secretary", and (2) by inserting at the beginning of such section the following heading:

"HEALTH SERVICES FOR DOMESTIC AGRICULUTRAL MIGRANTS"

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, This bill was reported unanimously by the committee, and would extend for 3 years the current program under which health services are provided to domestic agricultural migratory workers. This program has been in effect since 1962, and today covers approximately one-third of the approximately 1 million domestic agricultural migratory workers and their families.

The health needs of agricultural migrants are among the greatest of any group in the United States. In general, these Americans, as a group, have abnormally high infant mortality rates, high rates of communicable disease, high accident rates, and, in general, more health problems than almost any other group. As they follow the crops through the United States, they go from one community to another, and since they are nonresidents, do not qualify for many health programs provided by local communities but limited to residents. In addition the health facilities available in many of these areas which depend on the labor of these migrants are relatively meager. This legislation is designed to fill the gap in health services for these people, by providing grants which, in general, cover about 40 percent of the costs of providing health services for these migrants and their families.

Current law limits the services furnished to persons who are migrants; however this distinction turns out to be quite arbitrary in many cases since the status of a person as a migrant frequently shifts back and forth.

The bill, therefore, expands coverage of the program somewhat to permit the furnishing of health services to persons who are seasonal agricultural workers if the furnishing of these services will contribute to the improvement of health conditions of migrants and their families.

The bill authorizes a total of $55 million in appropriations over the next 3 fiscal years, and was supported by all witnesses at the hearings. The committee was unanimous in ordering the bill reported to the House, and we recommend its passage.

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

Mr. STAGGERS. I yield to the gentleman.

Mr. McCLURE. I would like to ask a couple of questions about this bill.

It seems to me there is a significant shift taking place, or at least proposed, in this measure, which if implemented could be damaging to some of the other programs now underway.

We have several different programs dealing with the same problems—some through the Department of Labor, some through the OEO, and some through HEW. Now this bill coming out of your committee dealing with Public Health Service.

Has there been an effort made or was there any testimony before the committee concerning the coordination of these various programs.

Mr. STAGGERS. There has been—yes—but this bill deals only with one phase of this, and this is the health problems involved with migratory workers.

Mr. McCLURE. I note that there has been what I think is a significant change in the language. But you are not dealing any longer simply with migratory workers, but also with these seasonal agricultural workers who are not migratory workers. Is this not a significant change?

Mr. STAGGERS. Yes, a bit, in this way, because we have found that they are all tied in together—they are migratory for a time and afterward they are not migratory, then we are going to deal with those.

We have also said that if they are migratory at this time and working in the field along side of those workers of our own or some other country, then they suffer from the same accidents and the same kinds of diseases. We put them under the same kind of help at this time.

Mr. McCLURE. Is not the concern for people who are not migratory properly the concern of the Committee on Education and Labor rather than the Committee on Interstate and Foreign Commerce?

Mr. STAGGERS. This is a health measure entirely.

Mr. McCLURE. I recognize that.

Mr. STAGGERS. When we are providing this aid, we say that they are migratory because they are working and they are moving in commerce, and at other times they are not in commerce, and they are classified in this way.

Mr. McCLURE. The bill does not say that. It says those who are seasonal migratory workers—and there are a good many seasonal migratory workers who are not migratory workers and never have been.

Mr. STAGGERS. The language, I think, is very specific in saying that the program is designed to help those who are migratory workers, in this case.

Mr. McCLURE. It is the intention then of the gentleman and his committee that the program be confined to those people who are actually migratory workers and those who are closely associated with them?

Mr. STAGGERS. Yes; that is the title of the bill and the purpose.

Mr. McCLURE. But that is not the language of the bill.

Mr. STAGGERS. I think it is. I think if the gentleman will read the bill, I believe you will see that it is and if the gentleman will read the report on the bill.

Mr. McCLURE. It is not your intention to embark upon the entire field of seasonal agricultural workers; is it?

Mr. STAGGERS. No, indeed.

Mr. McCLURE. I would like to point out two other things, if I may. That is that in a period of less than 10 years, this program has gone from $3 million annually to $30 million and we have little note taken of that fact on the floor. I think it is worthy of note.

Mr. STAGGERS. I will say to the gentleman that this involves only one-third of the migratory workers and we are going to have to do more. As my distinguished colleague knows, of course, when they are working in an area and contract a disease, it is going to be a danger to any community.

What we are trying to do is to avoid many of these situations that take place, and also to provide for these workers sanitary conditions, and we are going to see that lots of these things do not happen like accidents and disease.

Mr. McCLURE. I would assume from your statement then that in order to reach all of these, you can expect a $100 million program in a very short time.

Mr. STAGGERS. I would not say that. If we can get things under control we will not.

Mr. McCLURE. It seems to me that we have a proliferation of agencies involved in the problem of dealing with migrants and they have very real social, economic, and health problems. One hand does not know what the other hand is doing in this Government in this field.

I would point out that in my area of the country, we have a number of migrant labor camps that are run by, financed by, organized by, and supported wholly by the farmers who use those workers on their farms.

The Internal Revenue Service has undertaken to drive them out of business by making them taxable units rather than tax-exempt organizations. Just recently the Government has also cracked down on the availability of funds for the improvement of the sanitary facilities within these migratory labor camps that are not Government operated. It seems to me that while we are building up programs designed to better the lot of these people on the one hand, other agencies of Government are doing everything they can to harass and make it impossible for the private camps to continue to operate. I would hope that somewhere in this Congress, some committee, whether it be your committee or others, that are charged with responsibilities in this area would seek to coordinate the activities of the agencies of Government so that this harassment would stop and so that these camps, which are very well run and some of the best that we have, can continue to exist rather than be driven out through such actions.

Mr. SPRINGER. Mr. Speaker, since 1962 the Federal Government has been assisting local governments maintain health programs designed to meet the problems caused by the yearly influx of migratory workers. Health facilities and personnel are usually swamped by this sudden flood of people creating extraordinary demands for health services. Since starting this program with a handful of communities participating there are now 117 such projects in 35 States.

In addition to ordinary, in the field, health assistance the act was expanded to include emergency hospital services in recognition of the fact that many migrant workers will have dire need for hospital treatment and no way to get it unless it is available free or at a minimal cost. Community hospitals cannot bear the brunt of this demand alone.

In the bill now before us recognition is made of another factor which affects the whole problem and which we have not dealt with until now. Migrant workers not only have a great need for health care and tax the local facilities beyond endurance but they also bring with them in many instances diseases and other health conditions which then affect all of the seasonal workers in the area, whether migrant or local. Also a migrant worker may not always be migrant. Seasonal employment can be a way of life for many people who do not move about or at least do not move very far. When acute health problems attack seasonal workers it is not easy and probably not desirable to sort out those who will be treated under one set of rules and those who happen to arrive on a truck to be treated under a different set. H.R. 14733 allows use of funds to provide health services to seasonal—as opposed to migrant—workers when doing so will contribute to improvement of conditions for migrants.

More and more communities are coming to realize that providing health care for migrant workers is a direct contribution to the public health of an entire community. It is not easy to overcome generations of neglect combined with cultural barriers. The health standards of a large shifting group of our population must be raised gradually. It takes time but this program, which by comparison with most health programs brought here for consideration, is extremely modest and is making a significant impact on the problem. It is also one which requires community desire and community involvement if it is to succeed.

The bill before us would extend the program for 3 years and provide funds as follows: for 1971, $20 million; for 1972, $25 million and for 1973, $30 million.

I recommend the bill to the House.

Mr. ROGERS of Florida. Mr. Speaker, I rise in support of H.R. 14733, which would amend the Public Health Service Act to extend the program of assistance to the States for health services for migrant agricultural workers and to provide assistance for health services for other seasonal agricultural workers.

This legislation would extend the existing programs for 3 fiscal years at the following levels of authorization: $20 million for 1971; $25 million for 1972, and $30 million for 1973.

In addition, the scope of the present law is expanded to include persons—and their families—who perform seasonal agricultural services similar to the services performed by domestic agricultural migratory workers if the Secretary of Health, Education, and Welfare finds that such health services will improve the health conditions of migrant workers and their families.

In many instances, Mr. Speaker, the nonmigrant agricultural worker works side by side with the migrant worker. Yet, the nonmigrant often does not receive health care through the municipal, county, or State government; and likewise, he is ineligible for assistance from the Federal Government. The migrant worker and his family may receive good health care through the migrant health services program only to become exposed again to disease from the uncared for nonmigrant agricultural worker. Too, the nonmigrant may decide at the end of the season to move with the work force, as sometimes happens, thus making it difficult to distinguish the migrant from the nonmigrant.

It was the feeling of the committee that both the migrant worker and his family as well as the nonmigrant worker and his family could be served by expanding the scope of the bill and permitting the Secretary of Health, Education, and Welfare to determine when such additional health services should be provided.

We are making good progress under this program which was first enacted in 1962 as Public Law 87–692. At that time, there were only about one-half dozen isolated community programs in operation. There are now 117 single or multicounty, grant-assisted projects serving migrants in 35 States and Puerto Rico.

An estimated 325,000 migrants live in the counties served by such projects. As of June 30 of this year, 1,000 physicians were serving in the program; there were, in fiscal year 1969, 210,000 medical visits, 28,000 dental visits, and 3,600 migrants were hospitalized.

Yet, there is much more that needs to be done. We are reaching only about one-third of the total migrant population, estimated to be about 1 million. Over 600 counties where migrants live temporarily still have no grant-assisted services.

When I introduced the bill in August of this year to extend the program for 3 years, I recommended a funding authorization of $30 million for 1971; $45 million for 1972, and $60 million for 1973.

In testimony before the subcommittee, the administration indicated that it wanted only a 2-year extension of the program with an authorization of $20 million for 1972 and $25 million for 1972.

I believe we must do more, and can do more. The funding of this program has not been encouraging. As a nation we spend $250 per person per year on health care; last year, we spent $12 per migrant worker, including local support.

Although the authorization for 1970 is $15 million, the House-passed appropriation bill contains only $8 million for

this program, or about $8 for every migrant and dependent in the Nation.

The Senate Appropriation Committee has increased this amount to $15 million and I am hopeful that the Senate will keep the higher figure.

I urge approval of the legislation before the House at the present time, H.R. 14733, and I am likewise hopeful that an increased authorization for this measure can be obtained.

Mr. JARMAN. Mr. Speaker, this bill (H.R. 14733) provides for a 3-year extension of the migrant health program with an authorization level of $20 million for 1971, $25 million for 1972, and $30 million for 1973. This bill also broadens the definition of the program beneficiaries to include other seasonal agricultural workers.

In passing the Migrant Health Act, Congress recognized the obstacles faced by domestic migratory farmworkers and their families in obtaining health care. The migrant families share the health problems typical of other low-income minority groups who live in poor housing, lack education, and lack knowledge of good health concepts and practices. Added to these problems are the ones created by their mobility—lack of attachment to any one community, frequent rejection by the same communities that depend on their labor, and transiency which restricts their access to the health services made available to needy community residents. In addition, community health services are often provided at times which conflict with the migrants' work schedule and at urban centers usually far removed from the places where they work or live temporarily.

The migrant families are poor and cannot afford to purchase the medical care they need. In addition, many communities which need their labor for brief periods have meager health resources which are severely overtaxed by a periodic influx of migrants. As a result of long-term neglect, the health needs of migrants far exceed those of the general population.

The total migrant population is estimated at approximately 1 million persons including workers and their families. During each 12-month period, they work and live for several months in more than 900 of the Nation's 3,000 counties.

The migrant health projects have demonstrated that interest in meeting the health needs of migrant families exists in many communities across the Nation; and that States and communities are ready and willing to put forth effort and funds to make health services accessible to a temporary influx of migrants if they are encouraged to do so by the availability of outside financial and technical assistance in meeting a problem that no single State or community can meet alone.

These grant-assisted projects are community-based in the fullest sense of the term. The philosophy of the program is to encourage and to help the community recognize and assume its responsibility to include migrants in its planning and provision of health services, making whatever adaptations are necessary to serve them effectively. These projects are not demonstration or pilot projects. They provide urgently needed direct medical care to migrant farmworkers and their families.

Family health service clinics, serviced by nearly 1,000 physicians, are operating seasonally or year round in more than 225 locations in or near large concentrations of migrant workers and families. Last year, migrants made 210,000 visits to project physicians, and 28,000 visits to project dentists. In addition, nurses made 160,000 case-finding and health counseling visits to labor camps, other migrant home sites, schools, and migrant day-care centers. Projects have working agreements with 170 community hospitals in which over 3,600 migrants were hospitalized. Inter-project communication systems are being established to provide a capacity for continuity of care for migrant people as they move from place to place.

The program stresses flexibility in the scheduling of services to make them available at times and places where they can be effectively used. Physicians and nurses drive many miles, often over rough roads, to hold night clinics at points where migrants are concentrated. Health aides, recruited from the migrant community, work in the camps to interpret the service to those unaccustomed to seeking and using medical care.

In some localities, the number of migrants is small and they are widely scattered. In lieu of formal clinics, the project may set up a nursing program for regular camp visits for casefinding, referral of migrants to local physicians' offices, and arrangements for patient transportation, if necessary. This type of referral arrangement is often used to supplement family health clinics by providing services between clinic sessions.

Although progress is continually being made in the provision of health services to migrants, it is estimated that in the past year, health services reached only about one out of every three migrant workers. And they were reached typically for only about 3 to 6 months of the year. Even for the people with whom the program makes contact, the services are typically less than adequate. Dental services, especially for adults, remain a large area of almost untouched need. Preventive services, including systematic health evaluation of all patients seen by a project to determine evidence of hidden disease, must be given lower priority than care for immediate acute needs, and funds for support of hospitalized patients are often exhausted before the season is over.

Moreover, the overcrowded family health service clinics in some project areas testify to the need for better-staffed and more frequent clinic sessions. The family health service clinics, helpful as they have been, often operate in primitive facilities with primitive equipment. They are often understaffed and the physicians and nurses find themselves on a treadmill, treating symptoms without time or opportunity for doing much more.

From reports received from the projects, it is evident that growth in scope of service and geographic coverage are greatly needed. Local communities and States are willing and ready to assume part of the cost and the responsibility. They are beginning to find effective ways to relate the services of one project area to those in other areas where the same migrants are served, in order to provide increasing continuity of services for this population.

To meet the continuing needs of the Nation's migrants at a level more commensurate with their health problems requires continuation of the Migrant Health Act and substantially increased funds. The number of counties in which migrants have access to project services should be increased, with the expansion of geographic coverage concentrated on home-base and important "upstream" areas. More physicians and dentists should be employed for longer periods in existing and in new project areas.

Casefinding and followup care as migrants move from one county to another should be strengthened by adding more nurses and aides for field visiting to identify and bring migrants under care. The utilization of aides as intermediaries between the migrants and the professional health worker should be continued and expanded, in order to provide the migrant with greater opportunity to learn to accept responsibility for appropriate health action on his own behalf.

There is also need to extend services to other needy seasonal farmworkers and their families, who often live side by side with migrants, who share most of their handicaps except for mobility, and many of whom have migrated in the past and may again in the future. These seasonal farmworkers and their families form the core group in home-base areas from which the migrant population is drawn. There it is almost impossible to determine who is and who is not a migrant. The people themselves may decide to migrate one year and not the next.

The projects now in operation have largely been developed by careful planning and utilization of all available resources, Federal, State, and local, public and private. They are wonderful examples of community participation in planning and development of programs for health. However, the neglect of generations, cultural barriers, and the unusual problems found among the migrants cannot be overcome in a few short years. These projects are just now beginning to pay off on the investment. The bill recognizes the fact that special programs for agricultural migrants must be continued through the project mechanism if these people are not to be lost in the shuffle as they have been in the past. I, therefore, urge immediate passage of this bill as recommended by the Committee on Interstate and Foreign Commerce.

The SPEAKER pro tempore (Mr. HOLIFIELD). The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 14733.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING EL PASO AND HUDSPETH COUNTIES, TEX., TO BE PLACED IN THE MOUNTAIN STANDARD TIME ZONE

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14289) to amend the act of March 4, 1921, to place the counties of El Paso and Hudspeth, Tex., in the mountain standard time zone, as amended.

The Clerk read as follows:

H.R. 14289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the first section of the Act of March 4, 1921 (15 U.S.C. 265), the Secretary of Transportation may, upon the written request of the County Commissioners Court of El Paso County, Texas, change the boundary line between the central standard time zone and the mountain standard time zone, so as to place El Paso County in the mountain standard time zone, in the manner prescribed in section 1 of the Act of March 19, 1918, as amended (15 U.S.C. 261), and section 5 of the Act of April 13, 1966 (15 U.S.C. 266). In the same manner, the Secretary of Transportation may also place Hudspeth County, Texas, in the mountain standard time zone, if the Hudspeth County Commissioners Court so requests in writing and if El Paso County is to be placed in that time zone.

The SPEAKER pro tempore. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, the bill (H.R. 14289) as amended would authorize the Secretary of Transportation to place El Paso County, Tex. in the mountain time zone if he is requested to do so by the County Commissioners Court of El Paso County.

If El Paso County is placed in the mountain time zone, the Secretary may also place Hudspeth County, Tex. in that time zone if requested to do so by the County Commissioners Court of Hudspeth County.

These two counties are the westernmost counties of Texas. They have been observing mountain standard time since 1883 even though, by the act of March 4, 1921, the entire State of Texas was placed in the central time zone. The problem arose in the two counties under the Uniform Time Act of 1966 which requires the Secretary of Transportation to obtain observance of time zones.

The Secretary of Transportation has taken the position that he cannot make this change administratively because of the 1921 act. Apparently most of the people in the two counties support this legislation.

It was reported out of the committee unanimously. I urge its passage by the House.

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

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. In other words, the people in these counties in Texas do not care for the golfer's delight", or "fast time."

Mr. STAGGERS. I could not answer that question.

(Mr. SPRINGER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SPRINGER. Mr. Speaker, when Congress passed the Uniform Time Act I am sure we all hoped that we would see the end of legislation on this subject. By giving authority to the Secretary of Transportation to adjust the boundaries between time zones and giving to the State legislatures the option of abiding by daylight time or remaining on standard time, it seemed that we had created the necessary machinery to eliminate the need for further action. It now appears that by reason of a technicality and some legislative overkill which occurred many years ago we must specifically confer some further authority upon the Secretary to avoid what appears to be an injustice.

After the Time Zone Act of 1918 which established the Interstate Commerce Commission as the body authorized to regulate time zones, the Commission placed the western portion of Texas in the mountain time zone. An effort was made to change the Panhandles of Texas and Oklahoma into the Central Time Zone. The ICC refused. As a result Congress passed an act in 1921 placing all of Texas and all of Oklahoma in the central standard time zone. This posed definite problems for El Paso and Hudspeth Counties because they not only lie at the extreme western end of the central time zone but are actually 5° within the mountain time zone. Without any further action by the Government El Paso and Hudspeth Counties proceeded to abide by mountain time from 1921 until the present.

Had it not been for this legislative action in 1921 the Secretary of Transportation could have adjusted the situation under the Uniform Time Act. Since we did not appeal or alter the previous action, he lacks authority to do so. The purpose of this legislation is to allow the Secretary if requested to place El Paso or El Paso and Hudspeth Counties, Tex., in the mountain standard time zone.

The informal arrangement which has persisted so long cannot be allowed to go on indefinitely. The Uniform Time Act contains penalties for nonconformance, and eventually the Secretary of Transportation would feel forced to require compliance.

The committee has been well aware that other situations exist which have caused local problems. The committee has resisted efforts to resolve them by further legislative action. None of these situations if they still exist would be germane to the particular bill we are considering today, and I trust that we can correct this one legislative irregularity without conjuring up all the other ghosts which have haunted this subject for the last few years.

Mr. WHITE. Mr. Speaker, the bill we are considering today is of vital importance to two counties of my district. It would apply only to the two westernmost counties of Texas, El Paso and Hudspeth Counties. It gives the Department of Transportation the same discretion in setting the time zones for these two counties which it now has with virtually every other area in the country. It adds to the uniform treatment of time zones in the United States.

This bill would simply permit the Department of Transportation to act, in its discretion, upon the petition of these two counties to be formally placed in the time zone they are now using—the only time zone they have ever used since the standard time zones were created in 1883.

This bill corrects a problem existing in the law. In 1921, Congress passed a law (15 U.S.C. 265) intended to place the panhandle and plains sections of Texas—far to the east of El Paso and Hudspeth Counties—in central standard time. However, by placing all of Texas in central standard time, Congress forgot these two westernmost counties, which are not in the panhandle or plains sections.

The reason El Paso and Hudspeth Counties have persisted in using mountain standard time is that, on mountain standard time, El Paso County is within 5 minutes of true time. The 105th meridian, the standard for the center of the mountain time zone, runs through the eastern edge of Hudspeth County. The 90th meridian, sun time for the central zone, is more than a thousand miles to the east. The entire economy of these two counties is geared to mountain standard time. The trade territory with New Mexico, which overlaps these two counties, is on mountain standard time. That is why the Interstate Commerce Commission and now the Department of Transportation have never insisted that El Paso and Hudspeth Counties observe central standard time, and all maps show them to be on mountain standard time. I took a poll recently in these two counties on the preference of the people. I received 4,720 ballots favoring mountain standard time or 98.3 percent, and 82 ballots for central standard time or 1.7 percent.

Then, why is this bill necessary now? In 1966, the Uniform Time Act gave the Department of Transportation enforcement powers concerning time zones. Under the strict wording of the 1966 act, El Paso and Hudspeth Counties could be forced to use a time zone they have never used, a time zone in which they do not belong. My bill would not affect any other part of the Nation. The Department of Transportation has endorsed this legislation, because it does not wish to continue, indefinitely, an anomaly, at variance with law and fact.

Mr. Speaker, because an hour's variation from true sun time, particularly when coupled with daylight saving time for half of the year, would cause great inconvenience and considerable hardship to residents of my district; and because passage of this bill would contribute to a more reasonable delineation of our Nation's time zones, I move that this House suspend the rules and pass House Resolution 14289.

The SPEAKER pro tempore. The question is on the motion of the gentleman from West Virginia that the House sus-

pend the rule and pass the bill H.R. 14289, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to permit El Paso and Hudspeth Counties, Tex., to be placed in the mountain standard time zone."

A motion to reconsider was laid on the table.

PUBLIC HEALTH SERVICE HOSPITAL AT NEW ORLEANS, LA.

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13448), to authorize the exchange, upon terms fully protecting the public interest, of the lands and buildings now constituting the U.S. Public Health Service Hospital at New Orleans, La., for lands upon which a new U.S. Public Health Service Hospital at New Orleans, La., may be located.

The Clerk read as follows:

H.R. 13448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That, subject to the provisions of section 2 of this Act, the Secretary of Health, Education, and Welfare, is hereby authorized, on behalf of the United States, to exchange with the administrators of the Tulane educational fund upon such terms and conditions as the Secretary may determine to be in the public interest, the lands and buildings comprising the United States Public Health Service Hospital at New Orleans, Louisiana, for lands upon which a new United States Public Health Service Hospital at New Orleans, Louisiana may be located, to be provided by the administrators of the Tulane educational fund at a suitable site.

SEC. 2. The exchange authorized by the first section of this Act shall not be made unless the Secretary of Health, Education, and Welfare determines (1) that the value to the United States of the property to be conveyed to it is equal to or in excess of the market value of the property to be conveyed by the United States, or (2) that the United States is to receive from the administrators of the Tulane educational fund upon conveyance of the properties to be exchanged, a sum of money equal to the amount by which the market value of the property to be conveyed by the United States exceeds the value to the United States of the property to be conveyed to the United States. Any money received shall be covered into the Treasury as a miscellaneous receipt.

The SPEAKER pro tempore. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, this bill was reported unanimously by the committee, and we urge its passage. It was cosponsored by the gentlemen from Louisiana (Mr. BOGGS and Mr. HÉBERT), was supported by all witnesses at the hearings, and will benefit both the Public Health Service, the people of New Orleans, and the surrounding areas, and through improving the training programs in the health manpower areas, will provide more health manpower for the United States.

The Louisiana Legislature has created the Health Education Authority of Louisiana. This authority proposes to create a medical complex at Tulane School of Medicine.

Current plans provide for moving the Public Health Service Hospital from its present location in New Orleans to the site of this new center. The existing hospital is old and oumoded, and requires very substantial modernization. Constructing a new hospital at the site of this complex would provide better facilities for the care of patients of the service and would be of aid in the training programs of the hospital and of Tulane and other institutions in the area.

The bill would authorize the Public Health Service to exchange with Tulane the present site on which the existing hospital is located in return for land adjacent to Tulane University on which a new hospital could be constructed. If the value of the Federal property exceeds the value of the land exchanged for it, the bill provides that Tulane will reimburse the United States for that amount.

As is explained in our committee report, this authority is essential if we desire to insure that the Public Health Service be able to construct a new hospital at this complex.

As I mentioned earlier, the committee was unanimous in ordering the bill reported and we recommend its passage.

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

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, is there a reverter clause in the bill?

Mr. STAGGERS. No. This is a complete exchange of properties. The old Public Health Service Hospital was constructed in 1932. There will have to be construction of a new hospital, and they want to put it in the new complex at Tulane University where it will do the most good. The only way they can do that is to exchange this land for that purpose.

Mr. SPRINGER. Mr. Speaker, Public Health Service hospitals and the services which they render to merchant seamen and others have been an institution in our country since before 1800. In recent years the Public Health Service has been cutting back the number of these hospitals due to changed needs in the fields in which they serve.

The New Orleans area appears to have ample justification for continuation of a Public Health Service hospital. The one located there, however, is very old and if retained should probably be completely rehabilitated and rebuilt.

Tulane University is in the process of creating a new medical complex, and it would be to the advantage of all the institutions concerned if the Public Health Service hospital could be located within that complex. By doing so the capability of Tulane to educate greater numbers of medical students and to broaden other health programs would be greatly enhanced.

Passage of this bill would allow the Public Health Service to exchange its present property for lands of equal value located near the new medical complex. It will make it possible to plan for the expanded center on a realistic basis. It does not, however, bind the Department of Health, Education, and Welfare to the continuation of a Public Health Service hospital in New Orleans if and when it might appear desirable to discontinue it.

The SPEAKER pro tempore. The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 13448.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the six bills just passed, which were brought out by the Committee on Interstate and Foreign Commerce.

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

There was no objection.

EXTENDING CERTAIN EXPIRING PROVISIONS OF LAW RELATING TO VOCATIONAL EDUCATION

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13630) to extend certain expiring provisions of law relating to vocational education.

The Clerk read as follows:

H.R. 13630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(b) of the Vocational Education Act of 1963 is amended by striking out "and June 30, 1970," and inserting in lieu thereof "June 30, 1970, June 30, 1971, and June 30, 1972,".

SEC. 2. (a) Section 152(a)(1) of such Act is amended by striking out $15,000,000 for the fiscal year ending June 30, 1970," and inserting in lieu thereof "each of the three succeeding fiscal years,".

(b) Section 153(d) of such Act is amended by striking out "1969" and inserting in lieu thereof "1970, and on July 1, 1971."

SEC. 3. (a) Section 181(a) of such Act is amended by striking out "and June 30, 1970" and inserting in lieu thereof ", June 30, 1970, June 30, 1971, and June 30, 1972".

(b) Section 183(a) of such Act is amended by striking out "the fiscal year ending June 30, 1970," and inserting in lieu thereof "each of the three succeeding fiscal years,".

SEC. 4. Section 191(b) of such Act is amended by inserting after "1970," the following: "and each of the two succeeding fiscal years,".

SEC. 5. Section 555 of the Education Professions Development Act is amended by inserting after "1970" the following: ", and for each of the two succeeding fiscal years".

The SPEAKER pro tempore. Is a second demanded?

Mr. BELL of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PERKINS. Mr. Speaker, H.R. 13630 would extend until June 30, 1972, the following vocational education programs which were first authorized by the Vocational Education Amendments of 1968. These programs are special programs for the disadvantaged under section 102–B of the Vocational Education Act of 1963.

Grants to States for residential vocational schools under section 152 of that act.

Interest subsidies for residential schools under section 153.

Vocational education work-study program under section 181.

Grants for the improvement and development of vocational education curriculum under section 191.

And teacher training provisions for vocational educators pursuant to the 1968 Amendments to the Education Professions Development Act.

The first program recited above dealing with the disadvantaged carries an authorization of $40 million for each of the fiscal years; the second program dealing with residential vocational schools, $15 million; the third program relating to interest subsidies, $5 million; the fourth program—work-study, $35 million; the fifth program curriculum development, $10 million; the sixth program involving teacher training carries an authorization for $35 million a year.

It will be recalled that these programs were authorized when the House passed last year H.R. 18366 without a single dissenting vote being cast against it. I urge my colleagues to continue to give strong support for continuing and strengthening our vocational education programs.

Mr. BELL of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13630, the bill under discussion, would extend six existing programs of the Vocational Educational Amendments of 1968.

Although these programs do not expire until June 30, 1970, an extension by Congress at this time would permit the States much needed latitude in planning to meet their individual needs in these areas.

There are no increased authorizations in this bill.

The six programs would be extended at existing funding levels which were unanimously approved by Congress last year.

The Vice President recently spoke about the need for training American youngsters so that society can utilize their skills and talents.

Vocational education can teach every youngster—but particularly the distressed and disadvantaged youngster—a sense of his own worth.

It can show him how he can carve an important place for himself in rural and urban life.

It can help to make him feel essential to the society as a whole.

The report of the National Commission on Violence states that virtually all major crimes in this country are committed by youth between the ages of 15 and 24 who reside in cities.

Whether or not they are born in cities or move there because they can find no work in rural areas, far too many youngsters drop out of school and become outcasts from their own society.

Vocational education has helped immeasurably to reach many of these youngsters.

By stressing the creation of special programs to meet the needs of uniquely disadvantaged young people, encouraging progress is being made in schools in every one of our 50 States.

Curriculum development and teacher training are among the programs to be extended under H.R. 13630.

There is no question that they are integral systems that are mutually dependent on one another for success.

These and the other programs are necessary if the States are to develop the vocational education systems they need that relate to the problems and school age population of their States.

By extending existing authorization levels, they permit the States to modify their present plans in ample time to utilize these funds to their full effectiveness.

I urge my colleagues to join with those of us on the Education and Labor Committee who voted unanimously to provide these extensions under H.R. 13630.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Speaker, H.R. 13630 sponsored by myself, extends through fiscal year 1972 six of the new programs authorized by the Vocational Amendments of 1968. These programs are: Special programs for the disadvantaged; State grants for residential schools; interest subsides for residential schools; work-study; curriculum development; and teacher training.

By extending these programs for an additional 2 years beyond their present expiration date of fiscal 1970, the Congress encourages the States to plan now for their individual needs in these program areas.

Under special programs for the disadvantaged, $40 million per year is authorized for individuals who have academic, economic, social, or other handicaps that prevent or inhibit them from achieving normal goals in vocational education programs. Our purpose in authorizing these funds is to stress the flexibility of vocational education in reaching every American youngster who is interested in learning a marketable skill.

Special programs designed to meet the specific needs of the disadvantaged in areas where there is a high concentration of unemployment reverse the treadmill of failure and rejection. By designing programs with specific individuals and specific job needs in mind, the States and businesses located in the States can benefit from full employment. I wish to stress that because Congress has such great expectations from these special programs for the disadvantaged and has, therefore, designed the program as the only one permitting the Commissioner to allow 100 percent Federal funding, we urge very careful administration of this section by the Office of Education.

The second program to be extended is that authorizing $15 million per year for grants to States for the construction and operation of residential vocational schools. This modest sum would be for students from rural and urban areas who have dropped out of school or who are unemployed and who require housing while enrolled in special vocational education training.

Third, H.R. 13630 authorizes $5 million for the first year for making annual grants to public agencies to reduce the cost of borrowing funds for the construction of residential schools and dormitories. Interest rates on loans are at an all-time high in the Nation today. These additional funds would allow greater flexibility in meeting these additional interest requirements.

Fourth, the highly successful work-study program would be extended for 2 years under this bill. Students who can support their schooling through part-time employment gain immeasurably in maturity and independence. By participating actively in obtaining their education, they learn to excel at an early age.

The fifth program—curriculum development—authorizes $10 million a year for the development and distribution of materials and information about vocational education for school systems in all 50 States There are excellent people in vocational education today with ideas and methods of instruction that should be accessible to teachers in other communities. The Federal Government encourages improvements in vocational education curricula to meet the needs of students in rural as well as urban communities by extending this important program for 2 years.

Last, and perhaps most important, H.R. 13630 authorizes $35 million a year for graduate fellowships and teacher training and retraining. Our committee studied projections estimating the need for new vocational teachers to be 170,000 by 1975. With school enrollments expanding faster than existing facilities and teaching personnel, we must place not only emphasis, but funds, on training new teachers and offering retraining in current vocational education technology to teachers who need it.

There is no question that expanded vocational education training can help to solve the problems of unemployment that exist in America today. Vocational education is no longer the stepchild of American education. It is the foundation on which we can build an equitable, productive future for all Americans.

I urge my colleagues to support the unanimous action of the General Education Subcommittee and the Education and Labor Committee in voting to extend these six essential components of the Vocational Education Amendments of 1968.

Mr. DENT. Mr. Speaker, H.R. 13630 provides for a 2-year extension of six existing programs of the Vocational Education Amendments of 1968.

These programs are scheduled to expire June 30, 1970. This action is being taken at this time—in advance of that expiration date—to allow the States some vitally needed time to pln their voca-

tional education requirements for the next 2 years.

H.R. 13630 authorizes no new funds for these programs. It merely continues them at existing funding levels. In this way the States have some target figures to work with in determining their achievable goals for the future in vocational education.

Last year the House of Representatives voted unanimously for the Vocational Education Amendments of 1968. This comprehensive, wide-ranging legislation took great care to give to the States the major responsibility of adapting existing programs to the actual needs of their cities and towns.

A major shift is taking place in American education today. Increasingly, educators, businessmen, parents, teachers, and pupils are becoming interested in making the classroom respond to the tempo of our times. This response is demonstrated in our new awareness of making education mean more to children of all ages.

Too many children fail to achieve because their time in school is largely wasted time. Denied access to subjects that can teach them some of the practical skills that will enable them to become employed, they drop out by the thousands each year and their latent skills and talents are lost to society.

The programs to be extended under H.R. 13630 provide special help to the disadvantaged and the poor. They provide for construction of residential vocational schools and they extend the life of the work-study program which stresses individual student effort to achieve a marketable skill. The bill also extends programs of curriculum development and teacher training, both of which are necessary components to any effective communication of vocational education skills.

I am happy to support these practical, eminently worthwhile programs and urge my colleagues to join in passing H.R. 13630 today.

Mr. EDMONDSON. Mr. Speaker, H.R. 13630 extends at present levels of authorization six worthwhile and necessary vocational education programs.

It is hoped that by extending these programs through fiscal 1972 at this time, the States will be given the time they need to plan effectively for the future. Too often programs are extended or cut off within days of their legislative expiration date, causing confusion on the part of those agencies responsible for administering them.

By permitting the States to know now that the programs will be extended beyond June 30, 1970, steps can be taken to insure the continuation of programs without loss of efficiency or personnel because of uncertainty.

The six programs in this bill are necessary. Special programs for the disadvantaged are essential in any realistic evaluation of the effectiveness of vocational education training in the Nation. Similarly, residential vocational education schools are important to those youngsters who must travel great distances to school or who, for one reason or another, can only succeed when they are removed from their present environments. Oklahoma State Tech, at Okmulgee, Okla., is a splendid example of such school and its success.

The work-study program, which would also be extended under this bill, provides for and encourages young people to earn their way through school by means of part-time employment. This program acquaints the youngster with the world of work at an early age and shows him how he can achieve in that world and compete on equal footing with others of his own age.

From the standpoint of taxpayers, parents, and employers who will benefit from a comprehensive vocational education training program in the schools, curriculum development, and teacher training are undeniably vital. We need more vocational educators and greater access to techniques and methods of teaching vocational education.

H.R. 13630 extends these six programs for 2 years. It provides no new funding levels. It permits the States to plan to meet their actual and differing needs under these programs.

I urge my colleagues to join in extending these programs now.

Mr. MATSUNAGA. Mr. Speaker, I rise in support of H.R. 13630, a bill to extend, through fiscal year 1972, six of the programs which were authorized by the Vocational Education Amendments of 1968.

The Vocational Education Amendments of 1968 recognized the importance and need for a strengthened program of vocational education in this country. The proposed extension of these six programs, authorized by the 1968 act, would further reflect this body's recognition of the importance of educating, through vocational training, that segment of our population which does not choose to pursue a college career.

The proposed legislation would allow the States and local school districts to plan for these programs for the next 2 school years. If enacted, the legislation we are now considering would provide for the funding of special programs for the disadvantaged; for the construction and operation of residential vocational schools; for teacher training and retraining projects, and for work-study programs, where a student might supplement his schooling with a part-time job in a public agency.

One of the programs would authorize $5 million in interest subsidies for the first year for making annual grants to public agencies to reduce the cost of borrowing funds for the construction of residential schools and dormitories.

Another program would authorize $10 million a year for the development and dissemination of vocational curricular materials, standards and surveys. This program would insure improvement of existing courses and development of new courses in emerging occupational fields.

Mr. Speaker, it is imperative that this body take positive action to extend these programs authorized by the Vocational Education Amendments of 1968. Extension of these proven programs would help prevent wasted manpower among our young people and adults. It is clear that training and retraining constitutes the key to maintaining an adequate labor force for the future. we can help to reduce unemployment and provide for the Nation's future labor needs by the extension of these provisions in the 1968 act.

Mr. Speaker, for these reasons, I urge a favorable vote on this legislation.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Kentucky that the House suspend the rules and pass the bill H.R. 13630.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members who may desire to do so may have 5 legislative days in which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR HOUSE MANAGERS TO FILE CONFERENCE REPORT ON S. 2917, FEDERAL COAL MINE HEALTH AND SAFETY ACT

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the Federal Coal Mine Health and Safety Act, S. 2917.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

VESSEL BRIDGE-TO-BRIDGE COMMUNICATION

Mr. GARMATZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6971) to require a radiotelephone on certain vessels while navigating upon specified waters of the United States, as amended.

The Clerk read as follows:

H.R. 6971

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 "Vessel Bridge-to-Bridge Radiotelephone Act".

SEC. 2. It is the purpose of this Act to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operator's navigation station. To effectively accomplish this, there is need for a specific frequency dedicated to the exchange of navigational information, on navigable waters of the United States.

SEC. 3. For the purpose of this Act—

(1) "Secretary" means the Secretary of the Department in which the Coast Guard is operating;

(2) "power-driven vessel" means any vessel propelled by machinery; and

(3) "towing vessel" means any commercial

vessel engaged in towing another vessel astern, alongside, or by pushing ahead.

SEC. 4. (a) Except as provided in section 6 of this Act—

(1) every power-driven vessel of three hundred gross tons and upward while navigating;

(2) every vessel of one hundred gross tons and upward carrying one or more passengers for hire while navigating;

(3) every towing vessel of twenty-six feet or over in length at the water line while navigating; and

(4) every dredge and floating plant engaged in or near a channel or fairway in operations likely to restrict or affect the navigation of other vessels—

shall have a radiotelephone capable of operation from its navigational bridge or, in the case of a dredge, from its main control station and capable of transmitting and receiving on the frequency or frequencies within the 156–162 Mega-Hertz band using the classes of emissions designated by the Federal Communications Commission, after consultation with other cognizant agencies, for the exchange of navigational information.

(b) The radiotelephone required by subsection (a) shall be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the United States inside the lines established pursuant to section 2 of this Act of February 19, 1895 (28 Stat. 672), as amended.

SEC. 5. The radiotelephone required by this Act is for the exclusive use of the master or person in charge of the vessel, or the person designated by the master or person in charge to pilot or direct the movement of the vessel, who shall maintain or cause to be maintained a listening watch on the designated frequency. The master or person in charge may permit the use of the radiotelephone on other authorized frequencies within the maritime mobile band whenever there is no risk of collision.

SEC. 6. Whenever radiotelephone capability is required by this Act, a vessel's radiotelephone equipment shall be maintained in effective operating condition. If the radiotelephone equipment carried aboard a vessel ceases to operate, the master shall exercise due diligence to restore it to effective operating condition at the earliest practicable time. The failure of a vessel's radiotelephone equipment shall not, in itself, constitute a violation of this Act, nor shall it obligate the master of any vessel to moor or anchor his vessel; however, the loss of radiotelephone capability shall be given consideration in the navigation of the vessel.

SEC. 7. The Secretary may, if he considers that marine navigational safety will not be adversely affected or where a local communication system fully complies with the intent of this concept but does not conform in detail, issue exemptions from any provisions of this Act, on such terms and conditions as he considers appropriate.

SEC. 8. (a) The Federal Communications Commission shall, after consultation with other cognizant agencies, prescribe regulations necessary to specify operating and technical conditions and characteristics including frequencies, emission, and power of radiotelephone equipment required under this Act.

(b) The Secretary shall, subject to the concurrence of the Federal Communications Commission, prescribe regulations for the enforcement of this Act.

SEC. 9. (a) Whoever, being the master or person in charge of a vessel subject to this Act, fails to enforce or comply with this Act or the regulation, hereunder; or

Whoever, being designated by the master or person in charge of a vessel subject to this Act to pilot or direct the movement of the vessel, fails to enforce or comply with this Act or the regulations hereunder—

Is liable to a civil penalty of $500 to be assessed by the Secretary.

(b) Every vessel navigating in violation of this Act or the regulations hereunder is liable to a civil penalty of $500 to be assessed by the Secretary for which the vessel may be proceeded against in any district court of the United States having jurisdiction.

(c) Any penalty assessed under this section may be remitted or mitigated by the Secretary upon such terms as he may deem proper.

SEC. 10. This Act shall become effective January 1, 1970, or six months after the promulgation of regulations which would implement its provisions, whichever is later.

The SPEAKER pro tempore. Is a second demanded?

Mr. MAILLIARD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. GARMATZ. Mr. Speaker, the bill presently being considered is intended to facilitate communication between masters or pilots of approaching vessels. At the present time, the only means of communication is by prescribed whistle signals. Frequently, however, this signal system has proved insufficient to avoid collisions. Whistle signals are sometimes misunderstood. Also, under certain weather conditions, or because the pilothouse is relatively soundproof, the signals in fact have not been heard at all. As a result, during recent years there have been a number of very serious accidents resulting in the death of well over a hundred men.

H.R. 6971 is one of a number of bills that the Committee on Merchant Marine and Fisheries intends to present for consideration of the House during the present Congress, to reduce accidents in our navigable waters. They include licensing of personnel aboard diesel towboats, chiefly on our inland waterways, and a consolidation of the rules of the road to reduce the present four systems to a single system. It is to be hoped that enactment of these three bills will serve to arrest the trend toward increasing casualties on our waterways.

The present bill would provide for a radiotelephone on the bridge of vessels on our waters, with a requirement that the master or person in charge of the vessel keep communications open so as to talk to and listen to his counterpart on an approaching vessel where there is any risk of collision.

This legislation is intended only to provide for communication between the bridges of ships for the exchange of navigational information. It is not intended to replace existing radio facilities for safety or such radio officers carried aboard vessels as are required under existing law or agreements.

Within the past few years, we have seen in New York harbor, a collision and fire involving two tankers which were approaching each other without means of adequate communication. We have seen two collisions in the Mississippi River near New Orleans involving ocean freighters and oil-carrying barges resulting in the loss of over fifty lives. I submit to the House that all of these tragedies could have been prevented by adequate communication and it is believed that the system contained in the bill will achieve its purpose of increasing safety.

The interest of the committee was aroused as early as 1955 at the time of the collision of the passenger liners *Andrea Doria* and *Stockholm*, and as a result of an investigation by a group of experts on behalf of the committee, a recommendation was made that ships be equipped with bridge-to-bridge radiotelephones. This proposal is currently under consideration by the Intergovernmental Maritime Consultative Organization in London, and this bill is the counterpart nationally of its efforts internationally.

The present bill came to the committee by way of an Executive communication and during the hearings received almost universally favorable comments. In presenting this bill to the House, I am hopeful of favorable consideration because I am convinced that it is necessary to reduce the ever-increasing number of deaths and injuries on our waterways.

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

Mr. GARMATZ. Yes. I am glad to yield to the gentleman.

Mr. GROSS. Is there any cost to the Federal Government involved?

Mr. GARMATZ. There is no cost whatsoever, I will say to the gentleman from Iowa.

Mr. MAILLIARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is an important step forward in the field of maritime safety and I wish to join the distinguished chairman of our committee in urging that the House pass this bill.

Mr. Speaker, H.R. 6971 was unanimously reported by the Committee on Merchant Marine and Fisheries. I believe this legislation will close a serious gap in the ability of vessels to anticipate the intentions of other vessels which are encountered under potentially hazardous circumstances. As indicated by the distinguished chairman of the Merchant Marine Committee, there have been a number of serious collisions in congested harbor areas and on our inland waterways in recent years, which might not have occurred had the masters of the vessels involved been able to communicate by radio from their respective bridges.

The rules of the nautical road require the exchange of whistle signals between vessels which are passing or crossing. All too frequently, however, these signals are not heard because of wind conditions or because the bridge is completely closed on account of the weather. Additionally, in crowded harbor areas and on the inland waterways in the vicinity of major port areas, the volume of traffic encountered renders the exchange of whistle signals meaningless.

At the present time, the vast majority of oceangoing, harbor and river vessels are equipped with some form of radio communication equipment. This equipment is used, however, primarily for the exchange of commercial messages between the vessel and its company

headquarters and the marine exchange. Generally speaking, there is no established channel for the exchange of navigational information between vessels. Certain port areas, however, such as my own city of San Francisco and the city of New York have established voluntary systems of bridge-to-bridge communication covering at least those sections of the port where experience has shown that voice communication is essential.

A voluntary system of bridge-to-bridge communication also exists on the Mississippi River system above New Orleans, and by agreement with Canada a uniform system of radio communication has been in use on the Great Lakes since 1954. With thee exception of the Great Lakes system, however, all of the current arrangements depend upon the voluntary cooperation of the waterway users.

H.R. 6971, as introduced, would have applied only to power-driven vessels of 300 gross tons or over, vessels of 100 gross tons or over carrying passengers for hire, and dredges or other floating equipment operating in a navigational channel. The 300-gross-ton limitation would have effectively eliminated all harbor towing vessels, as well as the great majority of vessels operating on the inland waterways. The committee therefore amended the bill to require a radio-telephone on all commercial towing vessels of 26 feet or over in length at the waterline.

The second significant amendment adopted by the committee eliminated the statutory exemption for the Great Lakes and the Upper Mississippi River system. While the testimony received by the committee indicated that the bilateral agreement with Canada is being implemented satisfactorily, it does not conform to the radio frequency transmission capability specified in the bill. The Coast Guard has advised the committee that negotiations are currently underway with Canada to revise the agreement to adopt the frequency specified in H.R. 6971. When this has been accomplished, there will be no need for oceangoing vessels entering the Great Lakes to maintain a dual bridge-to-bridge radio capability.

Similarly, the voluntary system currently in effect on the Mississippi River system employs a longwave AM radio transmission system, which is not compatible with the standards called for in the legislation. Testimony before the committee indicated that a substantial majority of towing vessels on the Mississippi do, however, have the high frequency shortwave equipment.

In view of the rapid progress being made in the field of shortwave very-high-frequency telecommunications, the committee felt that it would not be advisable to grant a statutory exemption from the requirements of the act to any geographic area. The technical advantages of the very-high-frequency communication equipment will, in time, probably lead to its universal adoption.

In conjunction with the elimination of statutory exemptions for the Great Lakes and the Mississippi River system, and in order to recognize the voluntary systems now in use in certain major port areas, the Committee on Merchant Marine further amended H.R. 6971 to increase the discretionary authority of the Secretary of Transportation to exempt from the requirements of the bill areas where marine navigational safety will not be adversely affected, or areas where a local communication system fully complies with the intent of the bill but does not conform in detail. Under this authority, the Secretary may attach to this exemption such terms and conditions as he considers appropriate to insure that all vessels operating within the area covered by the local communication system have on board radio equipment which is compatible with the local system.

Accordingly, pursuant to section 7 of the bill, as amended, the Secretary of Transportation may exempt the Great Lakes, the Mississippi River system, and other areas which now have radiotelephone systems under regulations which insure that the system will function effectively. These exemptions will enable the maritime industry to move toward a uniform national system without disruption during the period of transition. The merit of this flexible approach is obvious when one considers the great number of ports and waterways which will be affected by the legislation. Local customs and procedures cannot be replaced overnight. Statutory exemptions would, on the other hand, tend to inhibit progress toward a nationwide uniform system and would not cover all areas where exemption, at least on a temporary basis, is warranted.

The significance of this legislation lies in the fact that it will give the master or pilot of the vessel a means of instant communication with virtually every ship he may encounter in American waters. The equipment will be located on the bridge readily at hand. Since it is intended for communication between vessels at close quarters, it need not have a significant range and could consist of a compact handset. Foreign vessels entering American waters normally take on board a qualified American pilot, who may bring the radiotelephone on board with him if the vessel is not already equipped.

Undoubtedly, the pilot associations of the various port and river areas which are frequented by foreign vessels will work out suitable arrangements to accommodate foreign-flag vessels as part of their overall service. Hopefully, however, the work of the International Maritime Consultative Organization will soon lead to an international radiotelephone convention which will require the presence of this equipment on all vessels in international waters.

Mr. Speaker, this bill is an important step forward in maritime safety and has been carefully reviewed and amended by the Committee on Merchant Marine and Fisheries. I join the distinguished chairman of our committee in urging its passage.

Mr. CLARK. Mr. Speaker, my experience as chairman of the Coast Guard Subcommittee of the House Merchant Marine and Fisheries Committee makes it quite obvious that we desperately need a bill such as this present one.

During the past 2 years, we have seen over 100 lives lost by reason of lack of communication between approaching vessels on our domestic waters. It is probable that most, if not all, of these lives could have been saved had this bill been effective.

It is designed to make certain that the master of an approaching vessel have clearly in mind the intentions of the other vessel so as to take necessary steps to avoid collision. This type of system is already in operation in a number of foreign ports and is presently being actively considered by the Intergovernmental Maritime Consultative Organization for adoption internationally.

We must increase safety on our waters and this is a most effective way of doing so.

The SPEAKER pro tempore (Mr. HOLIFIELD). The question is on the motion of the gentleman from Maryland that the House suspend the rules and pass the bill H.R. 6971, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CHANGING THE LIMITATION ON APPRENTICES AUTHORIZED TO BE EMPLOYEES OF THE GOVERNMENT PRINTING OFFICE

Mr. DENT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9366) to change the limitation on the number of apprentices authorized to be employees of the Government Printing Office, and for other purposes, as amended.

The Clerk read as follows:

H.R. 9366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 22, 1968 (ch. 3, Sec. 305, 82 Stat. 1240) (44 U.S.C. 305), is amended by deleting in the second sentence the words "nor more than two hundred apprentices at one time" and substituting therefor the words "nor more than four hundred apprentices at one time".

The SPEAKER pro tempore. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DENT. Mr. Speaker, the Government Printing Office operates an apprenticeship program which is limited by law to a maximum of 200 apprentices. This law was enacted in 1924, at which time the business of the office was but a fraction of its present production, and when its employment was only slightly more than half the present force.

The Government Printing Office finds it necessary to fill approximately 250 journeymen vacancies per year. In 1968, there were 304 vacancies that had to be filled. This was necessary because of attrition due to retirements, deaths, transfers, and other causes. Under the existing law on apprentices, the office is able to graduate 50 or less of the 250 journey-

men it needs each year. The remaining 200 or more journeymen need to be recruited from commercial printing plants.

The present limitations of 200 apprentices on a 4-year apprenticeship permits an average of only 50 appointments each year. Considering the Government Printing Office's need for replacing about 200 journeymen per year over and above those completing the apprenticeship program, the program does not provide the necessary manpower.

Initially, the bill stipulated that 500 additional apprentices would be employed by the Government Printing Office. Disagreement with this proposal was expressed by the trade unions employed at the Government Printing Office. Subsequently, hearings were held September 23 and October 16, 1969. The result was a directive by myself, chairman of the Subcommittee on Printing, that the Public Printer and the trade unions hold private negotiations to resolve their differences. The agreement they reached is printed in the report on this bill.

This was done and this bill now has support of all interested parties. The bill was unanimously approved by both the full committee and the subcommittee.

Mr. GROSS. Mr. Speaker, I yield back my time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Pennsylvania that the House suspend the rules and pass the bill H.R. 9366, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TO PROVIDE FOR ADDITIONAL MEMBERS OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. THOMPSON of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14213) to amend sections 5580 and 5581 of the Revised Statutes to provide for additional members of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

H.R. 14213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5580 of the Revised Statutes (20 U.S.C. 42) is amended to read as follows:

"SEC. 5580. The business of the Institution shall be conducted at the city of Washington by a Board of Regents, named the Regents of the Smithsonian Institution, to be composed of the Vice President, the Chief Justice of the United States, and three Members of the Senate and three Members of the House of Representatives; together with nine other persons, other than Members of Congress, two of whom shall be resident in the city of Washington; and the other seven shall be inhabitants of some State, but no two of them of the same State.".

(b) The first sentence of section 5581 of the Revised Statutes (20 U.S.C. 43) is amended to read as follows: "The regents to be selected shall be appointed as follows: The Members of the Senate by the President thereof; the Members of the House by the Speaker thereof; and the nine other persons by joint resolution of the Senate and House of Representatives.".

(c) The fifth sentence of section 5581 of the Revised Statutes (20 U.S.C. 43) is amended to read as follows: "The regular term of service for the other nine members shall be six years; and new elections thereof shall be made by joint resolutions of Congress.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, this is a piece of legislation which I would say will not cost the Federal Government anything.

Mr. Speaker, the governing body of the Smithsonian Institution is a Board of Regents consisting of 14 members: the Vice President of the United States; the Chief Justice of the Supreme Court; three Members of the U.S. Senate, appointed by the President of the Senate; three Members of the U.S. House of Representatives, appointed by the Speaker; and six private citizen members appointed on recommendation of the Regents by joint resolution of the Congress.

This bill, H.R. 14213, would increase from six to eight the number of private citizens serving on the Board of Regents. This proposed increase is commensurate with the recent growth in the Smithsonian Institution's responsibilities, the national character of the Institution, and the Institution's interest in gaining greater support, both from public and private sources, throughout the Nation.

Since 1955, the Smithsonian's staff has increased from 500 to more than 2,000, and the operating appropriations from $3 million to $26 million—almost ninefold.

The number of visitors to the Smithsonian has increased from 8 million in 1957 to an estimated 19 million in 1970.

The buildings for the preservation of the national collections and for their exhibition have grown from 1.4 million square feet to 3.3 million square feet.

Congress in the past few years has substantially broadened the diversified programs of the Institution, among them:

The National Museum of History and Technology—Public Law 106, 1955;

The National Portrait Gallery—Public Law 47–443, 1962;

The National Air and Space Museum—Public Law 89–509, 1966;

The Joseph H. Hirshhorn Museum—Public Law 89–788, 1966; and

The Woodrow Wilson International Center for Scholars—Public Law 90–637, 1968.

In the face of such growth, the importance of adding new members and their additional knowledge and leadership to the Board of Regents is highly desirable.

A larger membership would free the Regents—now rather hard pressed to keep up with events in this growing organization—to concentrate more deeply and to focus more effectively upon problems facing the Institution. With a larger membership sharing responsibility for the leadership of the Institution, for example, one member might feel free—as he now really cannot—to examine the Institution's management procedures and offer valuable advice; another might devote himself to building national interest and support for the Institution and its programs.

There are other reasons, beyond mere institutional growth for the expansion of the Board of Regents. The Smithsonian, which exists for "the increase and diffusion of knowledge among men," has a national and even international mandate. This is a national establishment chartered by the Congress; the museums are national institutions which open their doors to all who would enter; and, the research programs, traveling exhibitions publications, and exchanges with other museums and scholarly institutions literally embrace the globe.

In an age of change, when new demands are being made upon educational institutions to be more responsive, to be more open, to be more democratic, it is well for us to demonstrate our willingness to broaden the leadership of the Smithsonian.

The Smithsonian is a special sort of establishment, at once public and private, authorized by the Congress to seek and accept support from private sources.

It is believed that a more broadly based Board of Regents, representing more effectively the entire country, will materially help in efforts to gain support for the Smithsonian from individuals, families, foundations, and business concerns.

Members of the Board of Regents are paid only necessary traveling and other actual expenses in attending meetings of the Board. His service as a Regent is gratuitous.

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

Mr. THOMPSON of New Jersey. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, how many warm bodies did the gentleman say this would add to the Board of Regents of the Smithsonian Institution?

Mr. THOMPSON of New Jersey. It would add two more bodies.

Mr. GROSS. And, for what reason?

Mr. THOMPSON of New Jersey. Simply to give broader representation throughout the land and make it easier for them to get a quorum. The present constituency of the Board is, first, the Vice President, then the Chief Justice of the Supreme Court, the three Members of the Senate appointed by the President of the Senate, the three Members of the House appointed by the Speaker and six private citizen members, two of whom under the existing statute come from the District of Columbia. This is to broaden the national representation.

Mr. GROSS. To add two members against a population of 200 million would give the public what kind of added representation, percentagewise? I know the gentleman does not have the exact figure——

Mr. THOMPSON of New Jersey. My

arithmetic is not very good, but I might say it would be small. I also might add that in 1846 there were fewer than 20 million people in the United States, and they had 14 Regents back then, and the country is now in excess of 200 million people, and this would increase it by only two, so it is a very small increase.

Mr. GROSS. Is it possible that this could be for the purpose of more leverage on the Committee on Appropriations for more money for the Smithsonian Institution?

Mr. THOMPSON of New Jersey. No, I do not think so, I will say to my friend, the gentleman from Iowa, because in my years here and my experience here I know of no leverage being applied by any of the Regents of the Smithsonian for more money on appropriations. Also our colleagues, the gentleman from Ohio, Mr. KIRWAN and Mr. Bow, are both on the committee, and are Regents. The Chief Justice apparently, as near as I can tell, does not go out and lobby for money, nor does the Vice President come over to this side, and lobby for more money, although he is more active elsewhere.

Mr. SCHWENGEL. Mr. Speaker, will the gentleman yield to further answer that question?

Mr. GROSS. The gentleman from New Jersey has the time.

Mr. THOMPSON of New Jersey. If the gentleman from Iowa (Mr. GROSS) has further questions, I would like to answer those questions first before I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I would ask the gentleman from New Jersey what problems are there that present 14 Regents cannot solve that two more Regents can solve?

What are the problems that necessitate this?

Mr. THOMPSON of New Jersey. I would say in all candor that 14 can solve the problems which exist as well as 16, except that the availability of two more warm bodies would make it easier.

Mr. GROSS. Would make it easier? Then the present 14 want a little more comfortable way of life, perhaps? Could it be put that way?

Mr. THOMPSON of New Jersey. There is not really much comfort involved, as the gentleman might imagine, because these are mostly positions of honor, and are occupied by extremely distinguished citizens who at considerable sacrifice serve.

Mr. GROSS. Who in the executive branch asked for these additions? Or was there anyone in the executive branch that asked for them?

Mr. THOMPSON of New Jersey. The Regents from the executive branch are the ones who asked for the increase. There has been no objection from the Bureau of the Budget or anywhere else. I do not know that I could characterize these as administration requests, or executive branch requests.

Mr. GROSS. Then let me ask who wants these additional Regents?

Mr. THOMPSON of New Jersey. The incumbent Regents of the Smithsonian want them. A number of the members of the Regents, this being a very broad-based educational institution, find themselves when they come to their Regents' meetings unable to concentrate on areas that are specialties or are of special interest, and with the addition of two more members it would broaden the scope of their capability.

Mr. GROSS. Perhaps the gentleman from Iowa (Mr. SCHWENGEL) can shed more light than I have gotten so far on this. I will await his remarks, if the gentleman from New Jersey is going to yield to him. I will await with interest the comments of the gentleman from Iowa.

Mr. THOMPSON of New Jersey. I would say to the gentleman from Iowa that I would have brought a few more experts with me had I known that more illumination was necessary.

I will now yield to the gentleman from Iowa (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Speaker, I thank the gentleman for yielding.

First, Mr. Speaker, I want to commend the gentleman who has the floor, the gentleman from New Jersey (Mr. THOMPSON). The gentleman has explained the bill, and I agree with the gentleman completely in his observations and in his answers.

The one additional comment I want to make is this—and the gentleman from New Jersey has touched on it—that it would give the Regents a broader base, and the Regents are asking for this increase.

You notice on page 2 of the report that the Board of Regents has under its jurisdiction the National Museum of History and Technology, a magnificent new construction that reveals very much of our history and the machinery and technology available to the public free of charge; the National Portrait Gallery; the National Air and Space Museum; the Joseph H. Hirshhorn Museum, and the Woodrow Wilson International Center for Scholars.

We have these because they were given to us, and we have been the beneficiaries of tremendous gifts through the years beginning, of course, with the one from England itself, I think somewhere in the neighborhood of $400,000.

What the Regents would like to do is to have this broader base and bring these people in who could have a greater appeal to the foundations and the money to underwrite, at no cost to the Government, and widening and broadening their programs. I think it is very desirable and a modest request.

It was unanimously passed and actually there were extensive hearings and there was testimony from the Secretary and from Members.

Mr. THOMPSON of New Jersey. I thank the gentleman.

Mr. GROSS. Mr. Speaker, I yield myself such time as I may require, and I ask unanimous consent to revise and extend my remarks previously made and the remarks I am about to make.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. GROSS. Mr. Speaker, I still am at a loss to understand who wants the two additional Regents.

There are two Members of the House—no there are three on the Board of Regents, and I do not see them here supporting this proposal. They include the gentleman from Texas (Mr. MAHON) and the gentleman from Ohio (Mr. Bow), the ranking members of the Appropriations Committee.

Where, I ask again, is the great demand for the two more Regents—two more warm bodies, on this Board of Regents?

The gentleman from Iowa says that they need a broader base. I do not know what he means by a broader base—whether it is a broader base from which to exert power on the Congress to obtain better and bigger appropriations. What is this all about?

I know of no problems that the present Regents cannot solve.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am delighted to yield to the gentleman.

Mr. THOMPSON of New Jersey. As I said earlier in our colloquy, I do not know of any problem that the present Regents cannot solve and they themselves are the initiators of the request for the enlargement of the Board of Regents. They feel the additional Regents would make them a more representative body and would put them in a position to do their work better.

One must remember that the members of the Board of Regents of the Smithsonian Institution do not get the traditional per diem that many other bodies get. They get just the actual traveling expenses. They are assigned from the Government officials, which I enumerated earlier—persons in private life.

At the time of the establishment of the institution as a part of the Federal Government, there were approximately 20 million people in the United States. Now there are 200 million people in the United States.

The testimony indicates that George Washington University here in the District of Columbia, for instance, has a board of trustees, 43 in number. There are many, many other educational institutions, and the Smithsonian is one of these that have many more than 14 or 16 members. It simply could not, I assure the gentleman, increase lobbying capability because that just will not happen.

Mr. GROSS. Why does the gentleman say that? Why will it not happen? Why cannot it happen?

Mr. THOMPSON of New Jersey. Well it never has.

Mr. GROSS. I am not too sure about that.

But let me ask the gentleman this question. Do the Regents of the Smithsonian Institution have anything to do with that cultural palace over in Foggy Bottom, at the other end of Constitution Avenue?

Mr. THOMPSON of New Jersey. Does the gentleman mean that unfinished edifice about which he and I have had so many discussions?

Mr. GROSS. The cultural white elephant.

Mr. THOMPSON of New Jersey. The Jefferson Memorial has been there for a great many years. I do not know that they have anything to do with it.

Mr. GROSS. I am talking about the cultural castle.

Mr. THOMPSON of New Jersey. Oh, you mean the Lincoln Memorial. No, they have nothing to do with that, either.

Mr. GROSS. The Smithsonian has nothing whatever to do with that?

Mr. THOMPSON of New Jersey. Housekeeping purposes, perhaps, but not in the running of it.

Mr. GROSS. Now we are getting down to bedrock.

Mr. THOMPSON of New Jersey. One has to put such an edifice on bedrock in that area because, as you know, the Tidal Basin is nearby.

Mr. GROSS. There is going to be a lot of housekeeping over in Foggy Bottom when they get that cultural palace completed.

Mr. THOMPSON of New Jersey. This has nothing to do with the State Department, I assure the gentleman.

Mr. GROSS. I am not talking about the State Department; I am talking about your cultural castle.

Mr. THOMPSON of New Jersey. Is the gentleman referring to the proposed aquarium?

Mr. GROSS. No, the gentleman knows to what I am referring, and apparently there will be a lot of housekeeping problems over there. Perhaps the need for two more Regents is to do something about the housekeeping at the cultural castle

Mr. THOMPSON of New Jersey. I do not know exactly to what the gentleman refers. I have driven by all those edifices recently.

Mr. GROSS. The gentleman well knows they are not going to have enough money to operate that so-called cultural center when they get it constructed. They are going to come back to the taxpayers, and if the Regents of the Smithsonian Institution have anything to do with it, I am sure they will be in here banging on the doors for more money.

Mr. THOMPSON of New Jersey. I might say to the gentleman that at none of the buildings operated by the Smithsonian Institution is there a charge for the public to see them.

Mr. GROSS. Will there be a charge——

Mr. THOMPSON of New Jersey. On the Terrace at the Institute of Technology, down on the Mall—there is no charge for any of them.

Mr. GROSS. The gentleman is saying, then, that when that cultural castle is completed, I can walk in as free as the wind at any time and see any of the alleged shows that will be put on. You know they are going to charge admission.

Mr. THOMPSON of New Jersey. I do not know what the gentleman is referring to, but since I enjoy his company so much, I shall be glad to buy a ticket for him and accompany him there.

Mr. GROSS. The gentleman knows they will charge for the parking of cars and admission when they get that edifice completed. Otherwise how could he stand on the floor and say they will pay off the bonds?

Mr. THOMPSON of New Jersey. I do not know what the gentleman is talking about, but, for example, in the immediate vicinity of the Jefferson Memorial there is a little tidal basin. There are boats there. I understand that for a moderate charge one may rent one of those boats by the hour, and one can buy soft drinks and popcorn nearby, flags, and other memorabilia.

Mr. GROSS. I thought I saw one of those boats stalled out on the water not so long ago, and I thought I saw the gentleman from New Jersey in it.

Mr. THOMPSON of New Jersey. Some people undertake nautical excursions with or without the proper equipment, such as oars, and so on; but in this case we are merely trying to add two warm bodies to the Regents of the Smithsonian.

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

Mr. GROSS. I yield to the gentleman from Iowa, but I urge him to be careful.

Mr. SCHWENGEL. I would like to point out to the gentleman, who is very interested in serving the public interest, that one of the points made to us by the Secretary, a member of the Regents who appeared before the committee, indicated that by broadening the base and bringing some other influential people to the Board of Regents, they could make a stronger appeal to foundations and to business concerns.

Mr. GROSS. They can make a stronger appeal to the Appropriations Committee for more money on behalf of the Smithsonian Institution and the cultural palace. Is that what is being geared up for us here this afternoon?

Mr. SCHWENGEL. The gentleman and I were together on the cultural palace; but the Smithsonian Institution has no jurisdiction there. They have no influence. I imagine certain members of the Regents would be interested.

Mr. GROSS. The gentleman from New Jersey, who has more than a passing interest in culture, as he has demonstrated here over the years by continuing to promote that white elephant, tells us otherwise. He says the Smithsonian is interested in the housekeeping at the so-called cultural center.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Speaker, I do not know whether a recent arrival on the floor wishes to become a part of this very constructive discussion, but I know our distinguished and great friend, the gentleman from Ohio (Mr. Bow), who is a Regent, is here. He might help me out of my present predicament.

Mr. GROSS. If the gentleman wishes to yield the time, he may do so. I do not know which side the gentleman from Ohio is on. The time on this side is reserved for opposition to this strange proposition.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from New Jersey that the House suspend the rules and pass the bill H.R. 14213.

The question was taken; and on a division (demanded by Mr. GROSS) there were—ayes 15, noes 10.

Mr. THOMPSON of New Jersey. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken and there were—yeas 273, nays 119, not voting 41, as follows:

[Roll No. 328]

YEAS—273

Abernethy	Fulton, Tenn.	Morse
Adams	Fuqua	Morton
Addabbo	Galifianakis	Mosher
Albert	Gallagher	Moss
Alexander	Garmatz	Murphy, Ill.
Anderson, Calif.	Gaydos	Murphy, N.Y.
Anderson, Ill.	Gettys	Natcher
Andrews, Ala.	Giaimo	Nedzi
Annunzio	Gibbons	Nelsen
Ashley	Gilbert	Obey
Aspinall	Gonzalez	O'Hara
Beall, Md.	Gray	Olsen
Bennett	Green, Oreg.	O'Neal, Ga.
Biaggi	Green, Pa.	O'Neill, Mass.
Biester	Griffiths	Ottinger
Bingham	Gude	Passman
Blanton	Halpern	Patman
Blatnik	Hamilton	Patten
Boggs	Hammer-schmidt	Pepper
Bow	Hanley	Perkins
Brademas	Hansen, Idaho	Pettis
Brasco	Hansen, Wash.	Philbin
Brinkley	Harrington	Pickle
Broomfield	Harvey	Pike
Brotzman	Hastings	Poage
Brown, Calif.	Hathaway	Podell
Broyhill, Va.	Hawkins	Poff
Burke, Fla.	Hays	Pollock
Burke, Mass.	Hechler, W. Va.	Preyer, N.C.
Burleson, Tex.	Helstoski	Price, Ill.
Burlison, Mo.	Hicks	Price, Tex.
Burton, Calif.	Hogan	Pryor, Ark.
Bush	Holifield	Pucinski
Button	Horton	Purcell
Cabell	Howard	Quie
Caffery	Hull	Randall
Camp	Hungate	Rees
Carey	Ichord	Reifel
Casey	Jacobs	Reuss
Chamberlain	Jarman	Rhodes
Chappell	Johnson, Calif.	Riegle
Clark	Jones, Ala.	Rivers
Cleveland	Jones, Tenn.	Roberts
Cohelan	Karth	Rodino
Colmer	Kastenmeier	Roe
Conable	Kazen	Rogers, Colo.
Conte	Kee	Rogers, Fla.
Corman	Keith	Rooney, N.Y.
Coughlin	Kluczynski	Rooney, Pa.
Cramer	Koch	Rosenthal
Culver	Kyl	Rostenkowski
Daddario	Kyros	Roybal
Daniel, Va.	Landrum	Ryan
Daniels, N.J.	Latta	St Germain
de la Garza	Leggett	St. Onge
Delaney	Lloyd	Sandman
Dellenback	Long, La.	Satterfield
Dickinson	Lowenstein	Saylor
Diggs	Lukens	Scheuer
Dingell	McCarthy	Schneebeli
Donohue	McCloskey	Schwengel
Downing	McClure	Shipley
Dulski	McDonald, Mich.	Sisk
Dwyer	McKneally	Slack
Eckhardt	McMillan	Smith, Iowa
Edmondson	Macdonald, Mass.	Stafford
Edwards, Ala.	MacGregor	Staggers
Edwards, La.	Madden	Stanton
Eilberg	Mahon	Steiger, Wis.
Esch	Mann	Stephens
Evans, Colo.	Marsh	Stokes
Fallon	Matsunaga	Stratton
Farbstein	Mayne	Stubblefield
Fascell	Meeds	Stuckey
Feighan	Melcher	Symington
Findley	Mikva	Talcott
Fisher	Miller, Calif.	Taylor
Flood	Miller, Ohio	Teague, Tex.
Flynt	Mills	Thompson, Ga.
Foley	Minish	Thompson, N.J.
Ford, William D.	Mink	Tiernan
Fountain	Mollohan	Udall
Fraser	Monagan	Ullman
Frelinghuysen	Moorhead	Vanik
Friedel	Morgan	Vigorito
Fulton, Pa.		Waggonner
		Waldie
		Wampler

Watts	Wilson, Bob	Wydler
Whalen	Wilson, Charles H.	Yates
White	Wolff	Yatron
Whitten	Wright	Young
Wiggins		Zablocki

NAYS—119

Adair	Flowers	O'Konski
Andrews, N. Dak.	Ford, Gerald R.	Pirnie
Arends	Foreman	Quillen
Ashbrook	Frey	Railsback
Ayres	Goldwater	Reid, Ill.
Belcher	Goodling	Robison
Bell, Calif.	Griffin	Roth
Berry	Gross	Roudebush
Betts	Grover	Ruppe
Bevill	Gubser	Ruth
Blackburn	Hagan	Schadeberg
Bray	Haley	Scherle
Brown, Mich.	Harsha	Scott
Brown, Ohio	Heckler, Mass.	Sebelius
Broyhill, N.C.	Henderson	Shriver
Buchanan	Hosmer	Sikes
Burton, Utah	Hunt	Skubitz
Byrnes, Wis.	Hutchinson	Smith, Calif.
Carter	Johnson, Pa.	Smith, N.Y.
Cederberg	Jonas	Snyder
Clancy	Jones, N.C.	Springer
Clausen, Don H.	Kleppe	Steiger, Ariz.
Clawson, Del	Landgrebe	Taft
Collier	Langen	Teague, Calif.
Collins	Lennon	Thomson, Wis.
Corbett	Long, Md.	Utt
Cowger	Lujan	Vander Jagt
Crane	McClory	Watkins
Davis, Ga.	McDade	Watson
Davis, Wis.	McEwen	Weicker
Denney	Mailliard	Whitehurst
Dennis	Mathias	Williams
Derwinski	May	Winn
Devine	Meskill	Wold
Dorn	Michel	Wyatt
Dowdy	Minshall	Wylie
Duncan	Mize	Wyman
Erlenborn	Mizell	Zion
Eshleman	Montgomery	Zwach
	Myers	
	Nichols	

NOT VOTING—41

Abbitt	Conyers	McCulloch
Anderson, Tenn.	Cunningham	McFall
Baring	Dawson	Martin
Barrett	Dent	Nix
Boland	Edwards, Calif.	Pelly
Bolling	Evins, Tenn.	Powell
Brock	Fish	Rarick
Brooks	Hall	Reid, N.Y.
Byrne, Pa.	Hanna	Steed
Cahill	Hébert	Sullivan
Celler	King	Tunney
Chisholm	Kirwan	Van Deerlin
Clay	Kuykendall	Whalley
	Lipscomb	Widnall

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Martin.
Mr. McFall with Mr. Lipscomb.
Mr. Evins of Tennessee with Mr. Kuykendall.
Mr. Boland with Mr. King.
Mr. Brooks with Mr. Cunningham.
Mr. Steed with Mr. Hall.
Mr. Tunney with Mr. Fish.
Mr. Byrne of Pennsylvania with Mr. Cahill.
Mr. Dent with Mr. Reid of New York.
Mr. Celler with Mr. Widnall.
Mr. Baring with Mr. Pelly.
Mr. Barrett with Mr. Whalley.
Mrs. Sullivan with Mr. McCulloch.
Mr. Abbitt with Mr. Anderson of Tennessee.
Mrs. Chisholm with Mr. Clay.
Mr. Conyers with Mr. Edwards of California.
Mr. Kirwan with Mr. Dawson.
Mr. Hanna with Mr. Nix.
Mr. Rarick with Mr. Van Deerlin.

The result of the vote was announced as above recorded.

The doors were opened.

A motion was laid on the table.

GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ILLINOIS JURIST RECALLS WORLD WAR II ATROCITY

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

Mr. PRICE of Illinois. Mr. Speaker, with the recent interest in Okinawa my colleagues might like to share with me the personal recollections of the Japanese surrender of the island of a close friend of mine, the Honorable James Monroe, circuit judge of Madison County, Ill. Judge Monroe then an Air Force captain was responsible for investigating atrocity cases and for serving as a legal adviser to a joint British-American war crimes unit.

I am certain the Members will find the following article from the December 8 edition of the Collinsville, Ill. Herald, for which I request unanimous consent to include at this point in the RECORD, compelling reading:

RECALLS WORLD WAR II ATROCITY: LOCAL MAN ARRESTED OKINAWA COMMANDER

With Okinawa soon to be returned to Japan and Pearl Harbor Day freshly in mind, a Madison County judge recalls his biggest case and the arrest of the Okinawa commander for war crimes.

Checking his souvenirs of the wind-up to World War II is Circuit Judge James Monroe, then Air Force captain investigating atrocity cases and legal adviser to a joint British-American war crimes unit.

General Rickichi Ando was the Japanese Okinawa commander, and Governor General over that island and Formosa, where he and his staff were taken into custody.

The arrest was at the General's villa outside Taipei, then called Taihoku under Japanese influence, as Formosa was called Taiwan. The Japanese were still there "living like kings," Monroe said, in the spring of 1946, when the investigations were completed and the arrests were made.

IT WASN'T SIMPLE

Monroe recalls how, with a team of only three Americans and five British, he had to go all the way through U.S. Army channels in Shanghai to Generalissimo Chiang Kai-Shek at Canton to get Chinese support for the arrests and for the protection and movement of the prisoners to Shanghai.

Ando and two other Japanese officers committed suicide after being flown to U.S. War Crimes headquarters in Shanghai, by taking cyanide from under their fingernails.

Monroe's team, consisting of five British officers, two Americans and an interpreter, turned up the evidence on three main war crimes:

ATROCITY CASES

1. The "jungle camp" atrocity cases against Japanese in charge of British and American prisoners of war in the island interior—where many prisoners died of starvation, disease, overwork, brutality or torture.

2. The Kinkaseki copper mine case against Japanese in charge of British and other prisoners of war forced to do war materiel work under dangerous conditions and in violation of international law.

3. The "fourteen American flyers" case, against Ando and his staff, charged with executing 14 U.S. Navy pilots shot down over Formosa and later executed, on the basis of false Japanese military court charges that the flyers had indiscriminately bombed civilians.

The Japanese interpreter at the "kangaroo court" trial, a former University of Chicago economics graduate then a Tokyo professor, gave Monroe a 20-page affidavit showing how the court martial records were forged to show "confessions" never actually made by the American flyers.

The American flyers case was tried in a U.S. War Crimes court in Shanghai, where the remaining Ando staff officers found responsible received death sentences or long prison terms.

The jungle camp cases involving mainly British victims, were tried in Hong Kong, where Monroe served several weeks in pretrial work.

LT. PETER M. HANSEN SCHOOL, CANTON, MASS.

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

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to take this opportunity to call to the attention of the membership of the House of Represenatives the great honor I shared in participating in the dedication of the Lt. Peter M. Hansen School to the town of Canton, Mass. on Sunday, November 30, 1969.

The Canton School Committee, working with the wholehearted support and faith of the Canton community has constructed a school that combines the best of architectural design and efficiency and overwhelmingly displays the foresight of those responsible for the needs of the Canton community in the future.

I am proud that I was allowed the opportunity to participate in the dedication ceremonies, and prouder still of the Canton residents who have given unstintingly of themselves to make the Lt. Peter Hansen School a reality.

I am pleased to submit a copy of a letter I have received from Mr. Clifford Seresky, chairman of the dedication committee and the dedication program for November 30, 1969:

CANTON PUBLIC SCHOOLS,
Canton, Mass., December 2, 1969.

Hon. JAMES A. BURKE,
Congressional Office Building,
Washington, D.C.

DEAR MR. BURKE: On behalf of the Dedication Committee and the Town of Canton, I would like to take this opportunity to express our sincere appreciation for your participation in the Dedication of the Lt. Peter M. Hansen School. The message you brought to the people of Canton is appreciated and will long be remembered.

Thank you most sincerely.

Very truly yours,

CLIFFORD SERESKY,
Chairman, Dedication Committee.

THE LT. PETER M. HANSEN SCHOOL DEDICATION EXERCISES, SUNDAY, NOVEMBER 30, 1969, CANTON, MASS.

"For God And For Country": The committee members who have contributed effort, talent and unlimited time in making this school a reality:

Robert P. Holland, Chairman; Margaret R. Brayton, Ed. D., Charles T. Brooks, Theodore J. Goodman, M.D., Henry S. Hampson, Frederick J. McCabe, Vice Chairman, M. Ruth Ruane, Clifford Seresky, Leo Thornton, and William H. Galvin, Secretary.

Daniel T. Galvin, Duncan J. Gillis, Jr., William A. Flanagan, Edward J. Lynch, and Leonard F. O'Brien.

The Dedication Committee: Clifford Seresky, Chairman; Charles T. Brooks, William H. Galvin, Duncan J. Gillis, Jr., Theodore J. Goodman, M.D., Virginia A. Hobbs, and Frederick J. McCabe.

The Board of Selectmen: Henry S. Hampson, Chairman; Richard W. Murphy, Clerk, and Harold J. Fitzgerald, Member.

The School Committee: Theodore J. Goodman, M.D., Chairman; Margaret R. Brayton, Ed. D., Guy V. Digirolamo, William Kelleher, Thomas Lane, Michael C. Loughran, Leonard F. O'Brien, M. Ruth Ruane, Ronald E. Pozzo, Secretary, William H. Galvin, Superintendent of Schools, and John A. O'Connell, Assistant Superintendent of Schools.

Program presentation by the Permanent School Building Committee of the Lt. Peter M. Hansen School to the Town of Canton, November 30, 1969, at two thirty o'clock.

Unfurling the Stars and Stripes: Color Guards American Legion and Veterans of Foreign Wars. Comdr. James R. Dowling and Comdr. William G. Vieria; David Pike C.H.S. '70; Richard Beaubein C.H.S. '70; Canton High School Band and Edward J. Beatty Post No. 24 American Legion Band.

Opening remarks: Clifford Seresky, Chairman Dedication Committee.

Invocation: Rabbi Murry Gershon, Temple Beth Abraham.

Greetings: Robert P. Holland, Chairman Permanent School Building Committee.

Presentation and acceptance: Dr. Theodore J. Goodman, Chairman of School Committee; William H. Galvin, Superintendent of Schools; Lawrence M. Walsh, Principal.

Wonderful Day Like Today (Newley): The Canton Bands, John J. Judge, Leader.

Introduction of invited and distinguished guests.

Prayer for the Nation: Rev. Leo J. McCann, Pastor St. Gerard Majella.

Introduction of members of the school building and school committees.

Address: Hon. Henry S. Hampson, Chairman of the Board of Canton Selectmen.

Gallant Men (Cacavas): The Canton Bands, John J. Judge, Leader.

Oration: Hon. James A. Burke, Member of Congress.

Unveiling: Portrait of Lt. Peter M. Hansen by Mr. and Mrs. Edward C. Callery.

Prayer for children: Rev. John Hay Nichols, Unitarian-Universalist Church.

Presentation of flag: Edward J. Beatty Post No. 24, American Legion.

March of America (Moffitt): Canton Bands, John J. Judge, Leader.

Announcements.

Benediction: Rev. James L. Babcock, Rector of the Trinity Episcopal Church.

Refreshments: Mrs. Marie Holland, Dietician and the Cafeteria Ladies.

Tour of the building.

The faculty: Lawrence M. Walsh, principal; Virginia McGagh, Anne McDonough, Gail McNamara, Patricia A. Flynn, Joan D. White, Carole Raby, Mary J. Valin, Marion Feeney, Ann O'Malley, Ann Galvin, Elaine Patsos. Joseph Trovato, Jean C. Sturdy, Marjorie Bennet, Frances Steinberg, Susan M. Cleveland, and Paul Merchant.

Health office: Nelson D. Batchelder, M.D., Harold W. Tate, D.MD., and Mildred M. Gillis, R.N.

Elementary supervisor: Margaret Sullivan.

Description: The two-story academic wing containing 24 classrooms is joined at mid-level to all shared facilities such as Cafetorium, Gymnasium, Library, Reading and Administration area. There are four special classrooms at ground level. Two of the special classrooms with self-contained toilet rooms and storage area are planned for exceptional children. The remaining two special classrooms are planned for future Kindergarten use. Storage and book rooms are distributed on both floors.

The Cafetorium is equipped with dining tables which fold into the wall to allow for easy conversion to assembly use. The gymnasium can be divided by a motorized folding partition to provide two teaching spaces. Shower and locker rooms are adjacent and provide access to outdoor play areas as well as to the gymnasium.

Finish materials have been selected to minimize maintenance. Corridors are carpeted with walls of ceramic tile and painted light weight block. Ceilings, in general, are acoustic tile. Classroom floors are vinyl tile and walls are glazed block up to chalkboard height. Coat hanging space is provided behind vertically sliding chalkboards. All controls such as clocks, speakers, switches are grouped in a panel near the entry door. Typical classroom measures twenty seven feet by thirty two feet providing an area of 864 square feet and is furnished with sink, storage units, teacher's storage unit, chalkboards and tack boards.

In addition to the Cafetorium and Gymnasium, the mid level, shared facilities include a Library flanked on one side with Librarian's Office, work room and Audio Visual area. A Remedial Developmental Reading room is located at the opposite end of the Library. In addition to the usual administrative facilities such as Principal's Office, Health and Teacher's work room an office for the Elementary Supervisor is also provided.

The building is steel framed with concrete slabs on grade, and concrete on metal decking at the upper level. A forced hot water heating system supplies heat to unit ventilators, unit heaters and convectors.

Site development includes a fenced in lighted basketball area which can be flooded for skating, a baseball field and teacher and visitor parking. A single service area has been provided for all service to the building.

Acknowledgement: In the name of Canton, the Permanent School Building Committee expresses its sincere appreciation to all who have so generously aided it in accomplishing its work.—Robert P. Holland, Chairman.

Photographs by Gerzon's Photo Studio.

Architects—Rich, Phinney, Lang & Cote.

General Contractor—J. M. Construction Company.

Clerk of the Works—Walter R. Hearn resigned in November, 1968, Paul L. Mullen.

Programs distributed by the Canton High School High School Cheerleaders.

Color Guards—Edward J. Beatty Post 24, American Legion, Canton Post 3163 Veterans of Foreign Wars.

Clifford Seresky—Presiding.

A statement of thanks from the chairman: Over the past decade, the people of Canton have placed upon the membership, past and present, of the Permanent School Building Committee serious and compelling responsibilities. To this Committee has been entrusted the formidable task of planning and building and providing the brick, the stone and all the other appurtenances which go into making the physical facilities of our excellent educational system. Faced with the staggering demands on our tax dollars, together with the sacrifices entailed therein, this Committee has come before you at many Town Meetings and requested the necessary financing with which to provide our children with these maximum modern facilities. Unstintingly, you have approved and given approbation to your Committee.

Today is presented to you the result of your financial support and the work of your Permanent School Building people. This new addition to the Canton Schools complex will stand for generations to come as a testimony of your benevolence and your contribution and your belief in the Youth of Canton.

The Permanent School Building Committee is appreciative of the opportunity given to its membership—it is thankful for the privilege of being your spokesman in the field of municipal educational facilities—and it pledges by its future work to merit your continued approval.

CLIFFORD SERESKY,
Chairman, Dedication Committee.

MYLAI

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

Mr. DORN. Mr. Speaker, without question there is a diabolical, sinister scheme underway to destroy the Armed Forces of the United States. The latest is the charge against our soldiers at Mylai.

There are those who would try and convict American soldiers for trying to defend themselves in the heat of battle. The most effective way to destroy any army would be to have its soldiers subject to court-martial and retroactive charges for their every action in combat. This would paralyze and render impotent in the field the combat effectiveness of an army. There is no way to guarantee civilians will not be injured in the blinding smoke, dust, excitement, and confusion of battle. It has happened in every war, and it will happen again. Fewer civilians will be injured when maximum firepower is employed to end the struggle as quickly as possible. I shudder to think how many million American civilians will be slaughtered if we invite world war III by hamstringing our Armed Forces.

Mr. Speaker, I have observed the American soldier in the combat zones of Europe, Korea, and Vietnam. He is certainly the most humane soldier in the world. His tactics are not terror tactics such as those employed by Nazis, Fascists, and Communists. In Vietnam the American soldier has a better record in protecting and preserving the lives of civilians than any U.S. Army or any other army in the history of the world.

The combat effectiveness of the GI in Vietnam has been adversely affected by his love for children who are constantly in camp, and by his knowledge that he is fighting on two fronts—one to destroy the enemy soldier, and the other to win the people of South Vietnam when it is virtually impossible to tell friend from foe. Our men virtually have to withhold their fire until first being booby-trapped or fired upon.

I commend Congressman RIVERS for his role in halting the ridiculous Green Beret trial. I commend our beloved, dis-

tinguished, and able Chairman RIVERS for appointing a special committee from the Armed Services Committee to thoroughly investigate the Mylai charges. The Nation is heartened and encouraged by the courage of Mr. RIVERS and the dedicated members of the House Armed Services Committee who will see that justice prevails for our fighting men.

Mr. Speaker, I am confident that this special committee will take into account the scurrilous Communist propaganda. And, also, I know this committee will take into consideration the South Vietnam Government's investigation of these charges which they repudiated as Communist propaganda.

NO CURFEWS IN CHICAGO

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

Mr. MIKVA. Mr. Speaker, it is with great sadness that I note that certain elements of the black community in Chicago have proclaimed a "dawn to dusk curfew" for whites in black areas of the city. Although a certain malaise among the blacks is understandable in light of the unanswered questions about the shootings of Fred Hampton and Mark Clark, declaration of a curfew for whites in black areas is a most unfortunate and unjustified reaction which ultimately can only work to the detriment of both blacks and whites. I hope that those black leaders involved will recognize the shortsightedness of their present course and will withdraw their declarations immediately.

When any group of Americans is denied access, either officially or unofficially, to any part of our Nation's cities because of the color of their skins then all Americans are the losers. The irony of such discrimination by those very citizens who for centuries suffered in America under the oppression slavery and later of segregation and racial discrimination should be apparent. A small minority of Americans has nothing to gain by attempting to isolate itself from the rest of our society. The members of that minority will be the worst losers of such an attempt.

Mr. Speaker, the events of the last 2 weeks in Chicago have led to increased racial tension and distrust in that city. But the leadership of our city must explore ways to ease that tension and distrust, not exacerbate it. An impartial investigation by persons who can be both dispassionate and disinterested will illuminate the facts and circumstances of the shootout at the Black Panther apartment. That is why I have called for such an investigation. I was pleased to see that Mayor Daley also urges an impartial investigation. As an advocate for strong gun control laws, I hold no brief for the stated philosophy of political violence espoused by the Panthers; but as an even greater advocate of the Constitution, I hold no brief for those who seek to sweep under the rug the unanswered questions which go to the heart of due process of law.

Likewise I deplore the violence which preceded and followed the Panther "shootout." I am saddened at the loss of two white Chicago policemen who were reportedly ambushed and killed in a black neighborhood. I am dismayed at the assaults on students and others by those who exalt violence as a philosophy or the gun as a persuader.

I believe that the fullest investigative resources of State and local police agencies must be utilized to solve such crimes; I know of no reason why such resources would not be deemed credible for these tasks; it is the fact that law enforcement itself has been challenged which requires an outside investigative force in the deaths of the Black Panthers.

All men of good will must agree that there can be no winners in a game based on the color of a man's skin. All must agree that there should be no curfews for Chicago, for blacks or whites—and that those who suggest or countenance such tactics create the very repression which unfortunately has been a part of our history but must not be a part of our future.

BILL TO ESTABLISH A JOINT COMMITTEE ON ENVIRONMENTAL QUALITY

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

Mr. KLEPPE. Mr. Speaker, I have today introduced a measure that would establish a Joint Committee on Environmental Quality.

It is vitally important that the Congress recognize the urgency of the quality of our environment, and that we establish a joint committee to work with the President in making the 1970's the "Environmental Decade."

I do not want to imply that we must cease our efforts after one decade, but I do feel that we will have made a good beginning toward improving this country's natural resources for our children and their children.

For far too many years, we have largely ignored the damage being done to our land, our waters, and our atmosphere. Now that the situation has reached crisis proportions, it is imperative that we attack the factors with all the human and material resources at our command.

It is time for the U.S. Congress to accept its responsibility and establish the necessary joint committee to provide the legislation and congressional support as our environmental efforts proceed.

It is not enough for us to clean up our land, our water, and our atmosphere. We must provide alternatives that will prevent the future depletion of our resources.

In this connection, I introduced legislation earlier this year that would provide farmers and ranchers with an economic alternative to drainage. The water bank bill, H.R. 11717, was designed to stop the destruction of our wetlands. Today, at least 40 percent of the Nation's inland wet lands have disappeared because of drainage, highway construction, flood control, reclamation projects, and urban and industrial sprawl.

No piece of legislation with which I have ever been assoicated has received such broad and enthusiastic support from the people of North Dakota as has the water bank bill. But it is important to note that wetlands loss is a national rather than a State or regional problem. When we destroy our wet lands, we destroy the areas where our fish and wildlife breed. Yet we are destroying them, and it is time that we stop.

CHRISTENING OF THE U.S.S. "SUMTER"

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

Mr. WILLIAMS. Mr. Speaker, on Saturday, December 13, I was proud to be present at the christening of the U.S.S. *Sumter* at the Philadelphia Naval Shipyard. The *Sumter* is one of the new class of tank-landing ships known as the *Newport* class which is a greatly improved vehicle over the World War II type LST.

The sponsor of the ship who christened it on this occasion was the lovely and charming Mrs. Strom Thurmond, who performed her duties with grace and acclaim. It was a great occasion and those of us who were present were stirred by the ceremonies.

The principal speaker on this occasion was the sponsor's husband, the senior Senator from South Carolina, Mr. THURMOND. Mr. THURMOND's address on this occasion was devoted not only to the historical aspects of the name *Sumter* and the ships which preceded, but also to an assessment of the role of naval power in the missile age.

Senator THURMOND, who is the second ranking Republican on the Senate Armed Services Committee, pointed out the vast growth of the Soviet Navy and its tremendous attention to independent mobility on the seas and to submarine warfare. Senator THURMOND made a striking point when he said that the growth of these two aspects of the Soviet Navy is tied to the Soviet first-strike missile strategy. The key role of the naval power, according to the Soviet theory, is for the battle of world domination to take to the seas after the first strike has been launched.

Mr. Speaker, I would like to share with my colleagues the address by Senator THURMOND at the christening of the U.S.S. *Sumter* at the Philadelphia Naval Shipyard on December 13, 1969. It follows:

ADDRESS BY SENATOR STROM THURMOND

We are gathered here today to honor a ship named Sumter, a town named Sumter, a county named Sumter, and a patriot named Sumter. The common thread which runs through all of these is dedication to our country and to the ideals for which it stands. This ship is named after the town and county of Sumter, South Carolina. There are several counties in the South named after General Thomas Sumter, the revolutionary war hero, but Sumter, South Carolina and its county seat of the same name have the honor of being the only locale so-named in which the revered General actually dwelt. He lived in that vicinity for 67 years, until he died

at the age of 98. If nothing else, the locale must have been good for his health.

This ship, before which we stand, stands in a great tradition. She is one of a new class of tank landing ship known as the Newport class. She will have a greatly increased combat vehicular lift and landing capability over World War II tank landing ships. She and her sister ships afford the fastest and most efficient means of landing tanks, artillery and assault vehicles under combat conditions. Her normal method of unloading will be over the ramp, to pontoon causeway, then to the beach. A stern ramp is also provided for loading and unloading amphibian vehicles in deep water.

Her overall length is 522 feet, 3 inches. Her extreme beam is 69 feet, 6 inches; her full load displacement is 8,000 tons; her mean draft is 14 feet, 8 inches. Her speed is in excess of 20 knots. She will have accommodations for 32 officers and 588 men. Her armament will include two twin three inch .50 caliber guns. She is a handsome ship, as up to date as possible, and she will do the Navy proud.

This is not the first American ship named Sumter. She has been preceded by four other Sumters—two in the U.S. Navy and three in the Confederate States Navy. My arithmetic is correct, since one of them served in both navies. She was the cotton-clad Confederate Ram originally known as the General Sumter. Built in 1853 as a river tow boat, she was converted to a ram in June, 1861, with bales of cotton sandwiched between double pine planking bulkheads. She helped the Confederates defend Fort Pillow on May 10, 1862, and did yeoman service on June 6 at the Battle of Memphis, where she rammed the famous USS Queen of the West. All did not go well, however, since she was captured by Union forces a few hours later. Renamed the USS Sumter and put in Union service, she was damaged by Confederate guns off Vicksburg on July 15, and finally ran aground off Baydu Sara, Louisiana in August. Abandoned and stripped of parts, she was finally burned by the Confederates.

The second Sumter was the famous Confederate Raider that patrolled the Atlantic shipping lanes, gunning down Union ships on the high seas. Converted from the packet steamer Havana in June, 1861, she brought guerrilla warfare to the mid-Atlantic, taking 18 prizes in six months. Finally, she was blockaded by three Union ships at Gibralter. Realizing that the furious game was over, the Captain dismissed the crew, sent the officers back to the Confederacy, and sold the ship into British registry.

The third ship named Sumter was the Confederate transport built near Charleston in March, 1863. Her brief history was not quite so glorious. She was essentially a troop and munitions carrier plying the tidal rivers of South Carolina for five months. On the 30th of August she was mistaken for a Union monitor and sunk by the Confederate batteries from Fort Moultrie as she came up the channel.

The fourth ship named Sumter was the APA 52 Attack Transport of World War II. The keel was laid in April, 1942 as the SS Iverville. Delivered to the Navy a year later, she was renamed the USS Sumter after Sumter counties in South Carolina, Alabama, Florida and Georgia. Commissioned as an attack transport on September 1, 1943, she was the flagship of Transport Division 26. She served everywhere in the Pacific theater in such legendary areas as the Marshall Islands, Saipan, Guadalcanal, the Philippines, Guam and the Solomon Islands. She was decommissioned on March 19, 1946, but she had earned five battle stars to permanently assure her a place in military history.

The keel of the fifth ship named Sumter was laid on November 14, 1967, and we are about to launch her on a career which ought to be equally illustrious.

The man whose fame furnished the occasion of all these namesakes was born in Virginia in 1734 and was initiated into the Soldier's art with Braddock and Forbes in the French and Indian War. Among the Virginia troops sent to South Carolina during the Cherokee campaign, Sergeant Sumter was a tough, wiry little man who was later to become known as "The Gamecock of the Revolution." In 1765 he acquired lands in South Carolina, and two years later married Mrs. Mary Cantey Jameson, a well-to-do widow, several years his senior, and went to live in what is now Clarendon County.

Having served in the continental service as a Lieutenant Colonel, Sumter had retired in 1778 and was in retirement when the British conquered South Carolina in 1780. When Tarleton raided and destroyed his home, Sumter fled to Charlotte, established headquarters nearby, and effectively stirred up resistance. In October, he was commissioned Brigadier in command of the South Carolina militia, and was commended by Congress for his numerous exploits. Despite the fact that there was no state government in existence, Sumter undertook to raise and support a dependable force of mounted troops, enlisted for a regular period and paid in plunder from the Loyalists. He kept the largest body of militia on the field and was the first to make them stand against British regulars.

After the war, he founded the village of Statesburg, South Carolina, bred race horses, was a charter member of the Santee Canal Company and of the Catawba Company, and took out grants for more than 150,000 acres of land. In the S.C. convention to consider the Federal Constitution, he opposed ratification until Virginia could be heard from. He was a member of the First Congress, and frequently voiced his anti-Federalist feelings. In 1801, he was elected to the U.S. Senate, where he remained until 1810. Although a small man, his strength and agility were as remarkable as his longevity, and he rode horseback until the day of his death on his estate near Statesburg at the age of 98.

The General's leadership, both in war and peace, won him the undying gratitude of his fellow citizens. At the close of the eighteenth century, the S.C. Legislature united three counties of Camden District; namely, Claremont, Clarendon and Salem. On the first day of January, 1800, the new unit began to function as Sumter District, named in honor of the General, who was then serving in Congress. Sumter District was not a corporate body and could not own property or make contracts. It had no governing body for local administration. It was merely a unit for the administration of justice. The latter required a court house which was speedily built at a crossroads on a centrally located farm. The tiny village which grew up around the court house was named Sumterville. Sumter was chartered a town in 1845, and in 1887 became the City of Sumter.

Sumter District did not become Sumter County until 1868, after the fall of the Confederacy. The original area of the county, 1,672 square miles, has been reduced to 681 square miles, largely by the cutting off of Clarendon County in 1855 and of Lee County in 1902. Both county and city therefore grew up together.

The first shot in the War Between the States was fired by a Sumter youth, Citadel Cadet George E. Haynsworth, in Charleston Harbor in January, 1861, when the Star of the West attempted to bring in supplies for the Federal troops in Fort Sumter. Of course Fort Sumter was also named for our hero.

If I were to single out any particular quality of the citizens of Sumter, I would cite their historic resourcefulness in providing for the common need. As early as 1809, for example, the citizens had organized the Sumterville Circulating Library Society. In 1911, the City of Sumter became the first city in the world to adopt the city manager form of government. Or to take another example, in 1940 a group of citizens decided that Sumter County would be a good place to have an air force training base. Acting upon their own intiative, they examined sites, took options and convinced the Federal Government of the necessity of the base. The city and county then purchased the site for $180,000 in 1941 and leased it to the government at a dollar a year for ninety-nine years. By the end of the year came Pearl Harbor, and the rest is history. Shaw AFB, as it is known today, was named after Lieutenant Ervin D. Shaw, the first Sumter County pilot to die in combat in World War I.

II

But let us turn away from history for a moment. We are launching this ship at the same time when we are entering into a new period of confrontation with the Soviet Union—confrontation on the high seas. There have been dramatic changes in the Soviet naval posture, and I think that we had better pay attention to these changes, and their implications for the over-all Soviet strategy.

The two significant developments in Soviet naval power are the increased mobility of the Soviet surface fleet, and the intensive development of the Soviet submarine fleet, both in numbers and quality. Many commentators have asked what the Soviets are seeking. Some have even questioned the role of naval power in the era of massive intercontinental ballistic missile systems and suggested that the growth of Soviet naval power was the result of superior political maneuvering within the Kremlin.

In my judgment, the two-fold growth of Soviet naval power is a logical outgrowth of Soviet ambitions. The Soviets realized that their political goal of the domination of the world called for a powerful navy to support the control of the seas. Thus the Soviet Navy had to become a mighty arm of the ideological-political control exercised by the Kremlin.

At one time the Soviet navy was pretty much land-locked, ice-bound fleet that kept close to home ports. Since 1956, the Soviets have deliberately set out to acquire domination over the seas. They launched a program of building the most modern fleet in the world. It has taken them a long time to begin to come up to our standards of sophistication and engineering, but the inevitable result of their large construction program is newer ships in commission. The Russian naval fleet totals 1,575 vessels, as opposed to 894 for the United States. Moreover, 58 percent of the U.S. Navy's combat ships are 20 years old or more; but only 1 percent of the Soviet navy is that old. Another result is that the Soviets have five of the most modern shipyards in the world, three of them capable of building nuclear powered ships.

The real question, however, is not just the size of the Soviet fleet, but the strategy behind the increase in size. Historically, the Soviet navy has been hampered by the lack of warm water training cruises. The Black Sea was just too small for effective training. It was not until 1964 that the Soviets began to appear frequently in the Mediterranean. In that same year, Soviet naval vessels began to take routine long cruises, visiting European ports throughout the Atlantic and the North Sea. Today Soviet activity in the Mediterranean is a constant presence which has had an observable effect upon political developments in the Mid-East.

The most remarkable aspect of the Mediterranean cruises, as many observers have pointed out, is the constant practice in refueling and provisioning at sea. Despite base privileges in Egypt and Algeria, the Soviets have concentrated on training that keeps the fleet independent of land operations. Similarly, the Soviets have established an "un-

derway support group" in the mid-Atlantic to tend their ships at sea.

A final point in the discussion of Soviet surface fleet operations is the growing activity in the Pacific, where as many as 125 vessels often operate, including 30 armed with missiles. The massive flotilla that the Soviets sent to the coast of Korea after the Pueblo seizure, and the similar fleet sent to participate in the hunt for the U.S. EC–121 reconnaissance plane shot down by North Korea are typical of the training exercises devised by Soviet tacticians.

Although all of these training exercises which I have mentioned may be required by the lack of secure Soviet naval bases in some parts of the world, the thing to remember is that the Soviets are training their fleet to be independent of land operations. The role of the navy appears to be distinct from that of support of guerrilla operations in the so-called "national liberation struggles." In my judgment, this independent, seagoing operation is of critical importance in understanding the over-all Soviet strategy, and I will come back to it in a moment, after discussing some other considerations.

The other noteworthy aspect of Soviet naval development is the intensive program of submarine construction. We have 143 submarines; the Soviets have more than 375. We have 81 nuclear powered units; the Soviets have 65, but they are building one nuclear sub a month, and may surpass us by the end of 1970. By 1978, they may well have constructed between 100 and 150.

In connection with this massive submarine program, we have to take note of the Soviet interest in sea-borne missiles. It is estimated that over 40 of the Soviet subs are equipped with ballistic missiles capable of strategic attack against the U.S. The new Y-class submarine, comparable to our Polaris, has been observed on the high seas. In addition, over 60 Soviet submarines are equipped with 400-nautical-mile anti-ship missiles which have some capability against land targets. It ought to be noted that geography favors the Soviet position, since many of our major cities are exposed on the East and West Coasts, while the major Soviet cities are located deep within the continental land mass.

In addition, the Soviets have also mounted missiles on surface ships. Although the Soviets have chosen not to build any carriers, they have 29 missile cruisers, including 7 of the brand-new Kresta class, designed from keel up to accommodate missiles. They have about 30 missile destroyers, including 8 Kynda class destroyers of similar original design.

All of this Soviet submarine activity must be connected directly with the intensive training of its surface fleet in sea-support operations. We must conclude that the Soviets are seeking a world-wide mobility and independence of operations for its naval power.

What remains to be considered, then, is the role of this world-wide naval power in the over-all Soviet strategy. Is the role of this fleet intended to be merely an adjunct of the power politics of the Soviet Union, or does it have a unique part to play in the over-all strategic thrust of the Soviets against the United States?

Some people have argued that the ICBM systems of the two great powers provide the major deterrence against war, and that older weapons systems would be useful in local conflicts, but would not be decisive. Such thinking relegates conventional sea and land forces to a secondary role.

The Soviets do not agree. They envision the conflict with the West as a conflict of systems, carried on at all levels. They are striving for superiority of power, not merely adequacy to protect their interests. This year, for the first time, the Soviets surpassed us in the number of ICBM's, and they continue to build at a constant rate. And even if it were true that the ICBM systems had reached a technological stalemate, the Soviets are concentrating on the development of new kinds of weapons systems that will get around the ICBM stand-off.

For one thing, the ICBM stand-off depends upon the theory that no one would attempt a first-strike, since both sides have enough reserve power to destroy the other in return. Soviet military strategy does not accept such a concept. The official Soviet strategists, such as the late Marshal V. D. Sokolovsky, and others, maintain that it is possible to destroy the United States Minuteman system in its silos, before the missiles are launched. They speak of a so-called "retaliatory first strike", explaining that Soviet intelligence can detect when the so-called "imperialist aggressors" are preparing to launch a first strike. The Soviets would then launch a "retaliatory strike" to destroy the attacker's missiles on the pad. Such a strike would eliminate the ICBM threat, or at least reduce it to proportions manageable by ABM defenses.

The credibility of this strategy was given a strong boost by Secretary of Defense Melvin Laird when he revealed that the Soviets were continuing production of the super-size SS–9 missile beyond any needs recognizable under current U.S. strategies. I am now able to tell you something that could not be told at the time. The Senate Debate on the Safeguard ABM system was held in secret session last spring, but was only declassified and published in the Congressional Record a few days ago. The decisive argument which put the ABM across was the information that the Soviet ICBM's were targeted, not upon the cities, but upon our Minuteman silos. They are zeroed in with pinpoint accuracy. It appears that the super-size SS–9's are intended to penetrate our hardened silos.

To sum up, then, Soviet strategic thinking contemplates a first strike, the Soviets have the capacity to build towards a first strike, and they expect to be able to destroy our ICBM's without receiving a crippling blow in return.

This strategic thinking about the ICBM therefore centers attention upon the next line of military operations; namely, the undersea-launched missile system such as our Polaris and Poseidon. We have 41 Polaris submarines carrying 16 missiles each. The exact figures for the comparable Soviet Y-Class submarines are not available, but it is assumed that the Soviets are working to surpass us in this field if possible.

In the light of my earlier remarks, I think that the place of Soviet naval power in the over-all Soviet strategy is clear. In the case of a nuclear exchange, and nuclear devastation upon the land masses, the battle will turn to the seas. The Soviet emphasis upon self-sufficiency and sustained operations in the open seas would be most advantageous in such circumstances. The tremendous emphasis upon modern submarines and anti-submarine warfare would pay great dividends.

I say, therefore, that the Soviets regard naval power as the keystone of their missile strategy. Far from playing a secondary role in a future confrontation, Soviet sea power could be the decisive element. The navy is at the heart of their planning.

I am proud of the United States Navy. Its officers are men of spirit, and its men are brave in the line of duty. I think that this brand-new LST, with all its innovations for its class, is evidence that the Navy is forward-looking and a credit to the Nation.

However, we must study the role which the Soviet navy plays in over-all Soviet strategy. We must recognize that naval power has moved into the missile age. Technology has changed the context, but the country that dominates the seas will still dominate the world.

THE ARMED SERVICES COMMITTEE'S INVESTIGATION OF THE MYLAI INCIDENT WILL NOT BE A WHITEWASH

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

Mr. STRATTON. Mr. Speaker, I wish to second the remarks of the gentleman from Alabama made before the House earlier today. As another member of the investigating subcommittee of the House Armed Services Committee, and one of the four members recently named to the special panel to look into the Mylai incident in some depth, I am deeply concerned with what has obviously been a deliberate and calculated attempt on the part of some of the press to undermine in advance the investigation of our committee, and not only to misrepresent what our investigating subcommittee has already done, but to discredit in advance what this special panel is going to try to do in connection with this particular incident.

Reference was made to "bizarre" hearings by our committee in some columnist comments in the press just this morning. Let me just point out, Mr. Speaker, that the only thing that was bizarre about them was that almost uniquely in the history of our Armed Services Committee, one or more of our members have been discussing with the press confidential information that should never have been discussed outside the committee room.

At least part of the reason for these leaks, of course, is that the Mylai incident has stirred up the most persistent effort on the part of the press to find out what went on behind the closed doors of our committee that I have ever seen in my 11 years as a member of the committee.

There has been nothing bizarre about our committee hearings, Mr. Speaker, but what has been truly bizarre has been the effort of the press to provoke the chairman of our committee, the gentleman from South Carolina (Mr. RIVERS), who had been officially authorized by our committee to be the sole spokesman of that investigating subcommittee, into saying something that might look sensational in the headlines.

Actually, the only thing that Chairman RIVERS told the press was that, based on the information thus far presented to our subcommittee, there was not enough information to allow us to conclude, beyond a shadow of a doubt, that a massacre of the kind that has been described in detail in the Nation's press for the last 3 or 4 weeks had unmistakably occurred. That was an absolute fact, Mr. Speaker. We had some evidence that such a thing might have occurred, but at that stage of our inquiry the evidence was not nearly as convincing as the earlier press accounts had been that this tragedy actually occurred. This was all the chairman said, and he was speaking the truth, and every subcommittee member who heard the testimony knows it.

Now, when Mr. RIVERS said that, he was not saying that the subcommittee

had made any specific conclusion, nor was he saying that we as a subcommittee were not going to continue our efforts to get at all the facts. Most of the very vocal accusers in the Mylai case, whose statements have appeared at such length in the Nation's press, have not yet appeared before our subcommittee. Of course, we shall hear them; of course, we intend to hear anybody who can throw any light on this complex issue; most certainly we intend to get to the bottom of this whole matter, in keeping with our constitutional obligations; and we do not intend to be deterred by the attacks or even the ridicule of that segment of the Nation's press that seems to be so determined to try this issue in the headlines rather than through the traditional, constitutional methods which protect the rights of all.

Because Chairman RIVERS said what was factually accurate at that particular time was no excuse for some other member of the Armed Services Committee to rush to the newspapers with his own personal interpretation of the testimony presented. Members were under a solemn obligation not to talk, and if the press attributions are true, one or more members betrayed that responsibility as it has never been betrayed before in the long history of our committee.

Not only that, Mr. Speaker, not only did someone leak information when he was not supposed to; he did not even leak accurately. Whoever it was on our committee who leaked information did so in an effort to challenge the chairman of the committee. But he must have been asleep during much of the testimony presented to the committee, because the account he gave the press was very seriously garbled. He missed most of the key points presented with considerable care by the witness before us.

Yet this is what got into the headlines, Mr. Speaker, and it is these garbled, contradictory, inaccurate accounts that have created the impression—outside the committee room—of some bizarre, spectacular proceeding inside.

It was made clear at the outset by Chairman RIVERS that our investigating subcommittee would sit as a kind of grand jury on the Mylai case only long enough to determine whether there was enough involved in the case and its implications to merit a full, indepth study. That determination, I might point out to the House, was made by Chairman RIVERS before all of these spectacular headlines and counterheadlines appeared in the press. I was there, and I know.

A special panel, chaired by the gentleman from Louisiana (Mr. HÉBERT), and including Mr. GUBSER, Mr. DICKINSON, and myself, has now been appointed to undertake this job.

Now over the weekend we have suddenly seen an unprecedented, vicious, and totally inaccurate attack launched on this new four-man panel to discredit it in advance and to undermine, even before we start our work, our findings and conclusions. I have never seen anything quite so vicious in all my years in the House.

The four-man panel is only a coverup, we are told. It will not even do anything, another story reports; it is just a clever way to bury the whole investigation. All of the members of the panel are automatically discredited in advance, one editorial charges, because we are not publicly at war with Chairman RIVERS. We are just four patsies who will whitewash the Army and rubberstamp any conclusions the Army itself comes up with—so they say.

What fantastic and unmitigated rubbish. The truth is Mr. Speaker, that all of the members of the panel appointed by Chairman RIVERS have already demonstrated, on the public record, their ability and determination to call the facts as they see them and let the chips fall where they may.

The gentleman from Louisiana (Mr. HÉBERT) for example, was a crusading, investigating journalist long before many of the present crop of investigating journalists were even out of knee pants. He has continued and enhanced that courageous record here in this body. The gentleman from Alabama (Mr. DICKINSON) and the gentleman from California (Mr. GUBSER) have already amply demonstrated their record of independence as members of our investigating panel which made a searching inquiry into the Army tank program earlier this year and came up with a 39-page report that still has top generals and civilians smarting and resentful over in the Pentagon. I, too, served as chairman of another investigation into the sinking of the submarine *Guitarro* that made a lot of admirals unhappy. So none of the four of us is any patsy for the Defense Department and they know it. This investigation is going to be an investigation in depth. It is not going to be a whitewash. It is not going to be a rubberstamp for what the Army comes up with. And, most of all, it has not stopped. It is moving steadily ahead.

The Army officers are well aware that we are not going to rubberstamp them, and they have not been any too cooperative either, I might say. I think you will see an investigation report of which this House can be proud, when our panel reports.

Under leave to extend my remarks, Mr. Speaker, I include an editorial from the Washington Post of Monday, December 15, together with a letter I have written in reply to their totally false and unworthy insinuations:

[From the Washington Post, Dec. 15, 1969]

A PRESIDENTIAL COMMISSION ON MYLAI?

Mr. Nixon has not entirely foreclosed the possibility that he will appoint a special commission to investigate the killings at Mylai in March of 1968. At his press conference a week ago, the President said that the existence of a commission at this time might prejudice the rights of those men involved in current military court proceedings. But he added that he would consider the appointment of such a group should the judicial process "not prove to be adequate in bringing this incident completely before the public."

Meanwhile, various persons in and out of government have been urging that a commission be created. In a television interview last Sunday, for instance, Senator John Stennis suggested that the President authorize a "competent group" of individuals from "outside government, outside the military" to "determine what the facts actually are." Senator Stennis thought such a commission could provide "a more solemn and serious, deliberate development of the actual facts" than could a committee of Congress. A much broader inquiry seems to be envisaged by a group of lawyers and law professors in whose name Arthur Goldberg has called for the creation of a presidential commission on Mylai. It would investigate:

"The extent to which the war in Vietnam is being conducted in a manner consistent with the minimum humanitarian standards established by the international law of war and incorporated in the general and military laws of the United States . . . questions of policy guidelines for the conduct of military operations and the extent of our efforts to educate our troops with respect to the requirements of the laws of war . . . aspects of military-civilian governmental operations to determine whether there has been a lapse in the chain of communication and command."

Just as Senator Stennis emphasized the need for impartial commissioners, so Mr. Goldberg's group declared that any investigation would "only be credible if the body investigating is, and is seen to be, of unquestionable impartiality." Here one encounters the inescapable paradox of commissions and commission-making. Ostensibly apolitical bodies must be formed for the sake of achieving what is essentially a political end—namely, the neutralization of political conflict surrounding some issue or event, and the laying to rest of public suspicions that government is thinking or acting or speaking out on the basis of tainted, unreliable information. So commissioners tend to be chosen for their patent lack of special interest in the matter at hand, or they are chosen on the one-of-everything principle with a view to establishing a balance of special interests.

We have had better and worse luck with these commissions, and it is not unknown for a committee of Congress—amply stocked with men whose views would have been thought to disqualify them as reliable judges—to have produced the ideal commission-type result. Senator Richard Russell's investigation of the Douglas MacArthur affair some years back is an example, and when things work out this way, the findings of the committee have all the more authority precisely because of their source. In other words, the case for the appointment of a presidential commission on Mylai (or anything else) is not self-evident; it has to be made.

Events of the past few days have tended to overcome our own initial reservations concerning both the usefulness and the necessity of such a commission investigation at this time. Those reservations had to do with its possible interference with military court proceedings; the evident requirement that the court determine the facts of the matter—what happened—before others set about analyzing the implication of those facts; the preferability (if it were possible) of an in-government group conducting a thorough, fair-minded study of the events and meaning of Mylai which could be at once more powerful and more instructive (inside government and out) than the work of an independent commission.

However, Rep. Mendel Rivers, who is no Richard Russell, has in recent days utterly changed the picture and created conditions which seem to cry out for the designation of some presidential group that can preempt the Rivers sideshow and undertake a study in which Americans can have confidence. After several days of "closed" hearings of a 13-member Armed Services subcommittee marked mainly by inflammatory and conflicting reports by Rivers (and others) of what was or wasn't said, Rivers has now named a four-man subcommittee of members whose approach parallels his own to do the investigating. He has thus closed out the members with whom he is politically at

odds. Even if all this is—as rumored—an attempt to bury the hearings, they still represent a potential threat. There is nothing in the record of events so far to suggest that what follows will have any more dignity or seriousness than the escapades we have already witnessed.

We think Mr. Nixon would be well advised, therefore, to move on this matter. Of the suggestions put forth so far in terms of the composition and mandate of a presidential commission, we tend to favor, first, a relatively narrow or limited focus for the study. A commission which can tell us what happened—at Mylai and in relation to standing orders and to the chain of civilian-military command and communication—will necessarily provide larger insights and implications about the war without bogging down in an unmanageable, overly vague mandate. Second, we think there is much merit to the suggestion of Joseph Kraft, in a column last week, that any such study be undertaken by—yes—"a commission of senior and retired Army men." Among them, as he observed, are to be found the people "most determined to undo the wrongs that are shadowing the honor and reputation of the United States Army." And again: "It takes such men to examine carefully the intricate problems of command and control. Equally it takes such men to persuade the Army—and its millions of supporters around the country—that some soldiers have indeed committed wrongs and told lies."

The timetable, powers, and access to information of such a group, along with the degree of openness of its proceedings, are among the many matters that would have to be carefully worked out—especially in relation to the activities of the military court. But none of these problems is beyond resolution, and we stand to gain much in the way of knowledge and public confidence in the government's knowledge from the work of such a commission.

DECEMBER 15, 1969.

EDITOR, WASHINGTON POST:

As one of the four members of the House Armed Services Committee recently designated by Chairman Rivers to conduct an in-depth investigation into the My Lai incident, I resent your editorial implication (Dec. 15) that because we four are not "politically at odds" with the chairman there is "nothing in the record of events so far to suggest that what follows will have any more dignity or seriousness than the escapades we have already witnessed."

Surely you are not suggesting that unless the investigators are deeply opposed to our nation's policy in Viet Nam only a whitewash can emerge? Or are you? If not, then the record, which your editorial indicates you have never really taken the trouble to examine, should be instructive.

Congressman Hébert, chairman of the panel is, as Mr. Rivers has pointed out, the "most experienced investigator on the entire Armed Services Committee." His record of exposing waste, corruption, and malfeasance has been established over a lifetime, both as a top-flight investigating journalist in New Orleans 30 years ago, and a long-time chairman of the Armed Services Investigating Subcommittee.

The remaining three members, Mr. Gubser, Mr. Dickinson, and myself, were all members of a panel which earlier this year conducted a searching inquiry into the Army's Sheridan tank program and issued a 39-page report which could never give Army research and procurement officials any cause to cheer.

Earlier I chaired another investigating panel which took the Navy's materiel command to task in considerable detail for its culpability in the sinking of the nuclear submarine Guitarro while she was being completed at dockside at the Mare Island Shipyard in California.

In short, a close examination of the record you so glibly dismiss should suggest to any reasonable person, with a shred of objectivity, that there is no ground for concluding in advance that in the My Lai case we on this panel will discharge our constitutional duties with any less zeal or impartiality than we have already done in other less sensational cases.

SAMUEL S. STRATTON,
Member of Congress, 35th District, New York.

VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CONTE) is recognized for 60 minutes.

Mr. CONTE. Mr. Speaker, to label our involvement in Vietnam a mistake, a tragic error, a misguided adventure, may well be an accurate assessment of the situation. But, at this late date, it is a meaningless exercise in polemics. We can argue at length over why we are there. That, however, will not stop the killing, and it will not heal the wounds in Vietnam or bind up the division here at home.

My position is, and has been for the past few years, that we must get out. All thinking people, I would hope, are of the same persuasion today.

The emphasis now should, indeed must, be on the question of how we get out. This should be the prime concern of the President, his administration, the Congress, and all the people. This Nation, as you well know, is aroused over Vietnam as it has not been aroused over a single issue in decades. It would be nearly impossible to reverse the deescalation.

President Nixon, when he announced his first troop withdrawal last June, made a commitment for this country to get out of Vietnam. Subsequent withdrawals have reinforced that commitment. I certainly support the President's latest announced troop withdrawal as well as his two earlier ones. I believe that this newest reduction gives evidence of Mr. Nixon's intentions and reaffirms his commitment to peace.

I have spoken out on the war many times in the past. I was an early advocate of a negotiated settlement in Vietnam, as early as 2½ years ago, when I called for an end to the bombings. Since then I have supported many other measures to halt the killing in that war-weary nation.

The policy of the Nation on Vietnam has changed considerably in the last several years. Today the official American policy is to reduce the 540,000 American troops that were in Vietnam, in an orderly and planned way, by turning over the fighting to the South Vietnamese themselves. This policy of troop replacement, or Vietnamization, will make it possible for the United States to achieve an end to the American involvement in the war, and at the same time, it will hopefully permit the people of South Vietnam to decide their own future.

We have proposed internationally supervised elections organized by joint electoral commissions. The commissions would include representatives from North Vietnam and the N.L.F., we have also announced that we are prepared to accept any government in South Vietnam that results from the free choice of the South Vietnamese themselves. Therefore, we should be doing all in our power to convince the South Vietnamese Government to make a serious effort to strengthen its position among its own people. This must be done by including in the Government representatives of the various non-Communist nationalistic political groups.

During the hearings of the Foreign Operations Subcommittee this year, I noted that religious and political rights in Vietnam have often in the past been placed in jeopardy.

I cited articles in the Washington Post, written by Father Robert F. Drinan, dean of the Boston College Law School. We have all heard, for example, of the jailing of the runner-up in the 1967 presidential elections. If the Vietnamization strategy is to be successful, the Saigon government should have as broad a base as possible, and I question whether this is the way to get it.

Likewise, I have pointed out in the past that I believed that greater emphasis should be placed on establishing a mutual cease-fire. I am aware that we have offered to negotiate a supervised cease-fire under international supervision. In fact, most of the major peace initiatives have so far been made by our side. This should not, however, deter us from trying again. If we do not, we will never know just how much meaningless death and suffering could have been averted.

Vietnam has clearly dominated the attention of America in the sixties. It has been a controversial political issue that has made some men and broken others. We have been forced to question our policy assumptions and even our values as a Nation.

Recently, we have all read about the alleged killing of South Vietnamese citizens by U.S. troops. I refer, of course, to the Mylai or "Pinkville" incident. I was greatly disturbed by these reports.

Disclosure by the press is sometimes necessary to get certain facts before the public. It does not necessarily insure, however, that the whole truth will be presented. It also, as the American Civil Liberties Union pointed out last week, may impair the rights of the accused.

Therefore, I believe that it would be in the best interests of the Army, and our society as a whole, if a special investigation were conducted into this matter. This is the purpose of a bill that I will introduce this week along with my colleague from California (Mr. COHELAN). The bill would set up a blue ribbon commission to study the Mylai allegations. It would be modeled after the Warren Commission. This measure will have my support because I believe that such a commission is necessary to satisfy the demands of the Nation for a credible explanation of the Mylai incident.

In conclusion, I would like to mention Secretary Laird's December 14 remarks on ABC's "Issues and Answers." I was most impressed by the confidence with which he defended the program of Vietnamization. He indicated that he had the highest expectations of its eventual

success. I certainly hope that he is right. Secretary Laird has my support, and I can only say that I hope Vietnamization will lead to an early disengagement of all American combat and noncombat troops.

I want to make it clear, however, that I intend to hold the administration to its announced intention of getting us out of Vietnam. This is what we must do, and I propose to see that it is done.

OIL IMPORT CONTROL PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. McCARTHY) is recognized for 60 minutes.

Mr. McCARTHY. Mr. Speaker, the Cabinet Task Force on Oil Imports should be completing its study of the industry-wide mandatory oil import control program shortly. I am taking this opportunity, before the task force report is approved, to make absolutely clear the reasons for my opposition to the present oil import control program. After 10 years of struggling to overcome its inherent contradictions, the program has proven how poorly conceived ideas result in high oil and gas prices for the consumer and other inequities, cost inefficiencies and unattainable goals. I am sure that the conclusions of the Cabinet task force will bear this out. For the task force to recommend continuation of the oil import quota would be a serious disservice to the American people.

HISTORY OF GOVERNMENT REGULATION OF THE OIL INDUSTRY

In order to understand why the oil import program was established, one must review the history of governmental regulation of the oil industry generally. Regulation began immediately after the First World War and its impact has become more pervasive with every succeeding Government action. Characteristic of all this activity has been the piecemeal approach taken by successive Congresses and Presidents alike. As a result the oil industry is now burdened with an administrative web that immobilizes its competitive spirit and completely distorts the industry role within the U.S. economic structure.

With the end of the First World War, at a time when the oil industry was becoming a major American industry, percentage depletion allowances were introduced as a tax subsidy. To encourage intensive exploration and development of oil fields, the depletion allowance originally granted a tax reduction for the total value of the oil property discovered. In 1926 the depletion allowance was reduced to the present 27½ percent level of the company's total income. Paradoxically what we now see as a failure of the depletion allowance policy was its overwhelming initial success. Exploration went forward at breakneck speed. Many speculators moved to the West and South to capitalize on the high oil profits. Production rocketed at a time when the demand for oil and petroleum products was decreasing. To bolster the falling price of oil, the Government once again came to the aid of the oil industry. Instead of removing the incentives that the depletion allowance offered industrial investors, the governments of the leading oil-producing States introduced prorating—an artificial limitation on the amount of oil that could be marketed. Like many governmental policies, the depletion allowance was retained after outliving its usefulness because it was easier to keep an existing Federal program than to dismantle it and start over again.

Prorating operates by limiting the total production of oil within each state and dividing that total production between the various producers. The result of this form of rationing is to limit the overall production of the individual States. According to most oil experts prorationing has two distinct purposes. The first is to limit production so as to eliminate the waste that results when oil is pumped from wells too quickly. The second attempts to limit production to insure that the supply of oil remains equal with demand, thus guaranteeing that the price of oil remains unrealistically high. Although the first reason for prorating has merit, the second goes directly against our basic principles of a free-market economy. According to most economists, prorating to keep prices artificially high protects the small and marginal oil producers at the expense of the highly efficient ones.

By insuring a market for the small producers, markets that would otherwise be supplied by the larger more efficient operations, the more efficient producers are forced to cut back production. Prorating results in inefficiency and pushes prices up. With prices in the United States zooming upward, competition from foreign-based producers began to threaten domestic producers. During the latter part of the 1930's foreign producers found that through more efficient operations they could produce and ship foreign oils to this country for sale at a lower price than domestic producers. Recognizing the threat of foreign imports to domestic oil producers, the Government once again took action. However, instead of the more logical removal of both the oil depletion allowance and prorating regulations, the industry sought additional legislation to counter foreign oil imports. In 1943 the Government imposed a 19½-cent barrel tariff that has remained for 26 years.

Following the Second World War, the Government sat down to review its so-called oil policy. Although aware that all was not well in the oil industry, the special committees set up to review oil policy were blinded by the web of regulations that had sustained the various oil programs for close to 40 years. Instead of calling for the dismantling of the unwieldly Government controls that were slowly making the domestic oil industry noncompetitive, these special committees recommended more restrictions. In February 1955, the Advisory Committee on Energy Supplies and Resources Policy expressed the belief that:

> If the imports of crude and residual oils should exceed significantly the respective proportions that these imports of oils bore to the production of domestic crude oil in 1954, the domestic fuels situation could be so impaired as to endanger the orderly industrial growth which assures the military and civilian supplies and an inadequate incentive for exploration and the discovery of new sources of supply.

In the interest of national defense the committee recommended that imports be kept in the balance which it had recommended and that if this could not be done voluntarily, then "appropriate action should be taken" if imports significantly exceeded the recommended balance. In 1957 a voluntary import control program was established. These voluntary controls were an utter failure and after 2 years another special committee, the Special Committee To Investigate Crude Oil Imports, recommended that voluntary import restrictions would have to be replaced.

The mandatory oil import control program was born in early 1959 as a result of Presidential Proclamation No. 3279. As administered in the greater part of the country, the mandatory program restricts oil imports to 12.2 percent of domestic production. The main reason for this program, according to the experts, was the necessity for maintaining a strong domestic oil producing industry in the interest of national security.

The establishment of the mandatory oil import control program marked the fourth time the Government had stepped into the oil industry to salvage and reform it; the three previous attempts proved unsuccessful, the fourth attempt was a debacle. Subject to unremitting criticism from all segments of the country, including the oil industry itself, the mandatory oil import quota program has proved to be, as Allen T. DeMaree stated:

> One of the most ill-conceived and ill-executed federal regulatory schemes since the abortive flight of the NRA's Blue Eagle.

The depletion allowance already had made it possible for the Nation's biggest oil companies to pay taxes of only 2 to 8 percent of their net income and the Atlantic Refining Co., despite total earnings of $410 million, to pay no taxes from 1962 to 1967. The market demand prorating regulations had kept oil producers with 1,000 barrels a day potential from producing more than 100 barrels so as to insure a place in the market for the five-barrel-a-day producers—this compares with 5,000 barrels a day in the most profitable oilfields in the Middle East. The new import controls added the final blow. An Interior Department study shows that the oil quota restrictions cost American consumers, in added gas and oil costs, between $7 and $8 billion per year.

In terms of gasoline prices alone, the cost to the domestic consumer is staggering. With the import quota removed, the price of gasoline would be decreased by 8.04 cents per gallon. Logging 25,000 miles a year, the average driver would realize a savings of more than $100 annually. This would be a 25-percent saving reduction for the cost of gasoline.

Most estimates of the cost of the quota system in terms of the inflated cost of gas and oil are incomplete. To truly appreciate the financial burden imposed by the quota system, one must look to

the impact of these high oil prices on associated industries such as petrochemicals.

I mention petrochemicals because the 39th Congressional District which I represent is recognized for and economically dependent upon some of the most progressive petrochemical firms in the country. I know their plight from both objective personal observation and from extensive conversations and discussions with many spokesmen from the industry itself. The petrochemical industry manufactures synthetic organic chemicals, fibers, rubbers and plastics that end up in thousands of everyday products. The petrochemical industry, unlike the U.S. oil refining industry, competes in a worldwide market. All costs of production for the industry are reflected in the ultimate selling price of the finished product. Those companies that can purchase the raw oil at the lowest cost can therefore sell their finished product at a cost proportionately less than their competitors.

Within the existing world oil market, petrochemical companies that purchase American oil are at a marked disadvantage.

Today, the American petrochemical companies that purchase high priced domestic oil are faced with increasing pressure from imported petrochemical products made by foreign producers from lower-cost oil. The raw materials, including oil, that go into the finished petrochemical products amount to from 5 to 14 percent of the product's selling price. The cost of raw materials directly affects profits and is enough to make or break a decision to produce new products. Faced with the problem of purchasing raw materials for their finished products at a price 60 percent higher than their foreign competition, our petrochemical industry is being threatened with destruction by a program designed to protect the oil industry.

The $7 or $8 billion financial burden resulting from increased oil and gasoline prices is therefore only part of the story. By increasing the price of crude oil, the import quota program increases by a similar amount the cost of those products that are made from crude oil. These products include everything from toothbrushes to automobile tires and sofas. In fact, when these associated price disadvantages are considered, the quota system is probably costing the American consumer $15 to $20 billion a year. In turn, our purchasing power is effectively reduced, forcing the more disadvantaged to go without consumer items that many of us take for granted.

OIL IMPORT QUOTA PROGRAM

The oil quota system has been the most recent attempt to protect and rejuvenate the domestic oil industry. It is also the most elaborate, arbitrary and inequitable. It originally called for limits on imports if they rose to 12.2 percent of domestic production. This original formula, however, is presently limited by a number of inconsistant and irrational exceptions. Beyond citizen dissatisfaction, the quota system has led to interindustry and interregional fighting for favors from Washington. As a lifetime resident of Buffalo, N.Y., I have experience firsthand the burden that the quota system has placed on my section of the country. Presently, the right to import oil is distributed among participating companies. However, oil companies west of the Rockies are not controlled by this formula because the Government has proclaimed this area an oil deficit area. East of the Rockies, the distribution of these privileges is made by the Federal Department of the Interior and is both arbitrary and inequitable.

According to the original import regulations, overland imports of Canadian crude oil are exempted from the mandatory import restrictions. The regulation, however, has been extended to this source of oil by an informal agreement between the Governments of the United States and Canada which sets up an overall level of imports for Canadian crude oil into the United States. The result of this agreement has been to limit imports to the Buffalo refineries. Strangely, at the same time there has been an increase in the imports for refineries in the Duluth and Toledo areas. Although the justification for this difference in treatment has been the inaccessability of domestic oil for these midwestern refineries, the argument is faulty because the same argument can be made for the Buffalo area refineries. Although Buffalo does have access to limited domestic supplies by way of the Buckeye pipeline, the usefulness of the supply is restricted by the antiquated nature of the pipeline.

The Canadian interprovincial pipeline serving refineries to the West, and to a limited degree the Buffalo area, can be used to pipe any variety of crude oil—the Buckeye system brings in only one type of crude—all oils being fed into the pipeline being mixed together before reaching their final destination.

Without the mandatory oil import program the justification for the informal import restriction of overland imports would no longer exist. Without the mandatory oil import program simple economics would force the domestic industry to become efficient and meet the challenge of foreign competition. Without the mandatory oil import program areas of the country which experience extended subzero winters would not be made to pay higher prices for fuel oil and actually suffer.

NATIONAL SECURITY

Why then do we retain the oil quota system when it is clear that the system is expensive, inequitable and dangerous? The reason given by the Government and oil industry alike is that national security requires it. In fact the House Interior Committee stated last year that:

> Three presidents of this Nation, beginning with President Eisenhower, and continuing with Presidents Kennedy and Johnson, together with innumerable special task forces, commissions, and study groups, as well as several congressional committees, have all been of one mind on the objective of the mandatory oil import program. Its one and only reason for being is to insure the national security of this nation by reducing the country's dependence on foreign imports by assuring a strong and vigorous domestic petroleum industry.

To this day, oil remains the only commodity that the United States does not import freely for reasons of national security. Although I admit that our national security does require an adequate source of oil, the present oil import quota in no way commends itself to this task. It is simply a question of cost and there are many alternatives that exist that would provide sufficient oil for times of national crisis that would not be nearly as expensive as the present import program. We do have sufficient oil resources. Look first at our present and potential reserves in this country. According to most experts we have around 300 billion barrels of oil underground waiting to be tapped. At the current rate of consumption of 30 billion barrels a decade, we have enough oil available to carry us through the next 100 years. This forecast does not take into account the undiscovered oil in this country or the huge supply recently discovered on the Alaskan Slope. Furthermore, it has been estimated that there is an additional 1,000 years' supply of shale oil not even touched in this country. It would appear much more economical to develop means to extract this oil cheaply in the name of national security rather than burden the taxpayer with a $7 billion financial cost in the name of that same cause.

In any event, it is obvious that our oil supplies are not threatened. With the increased dependence on nuclear powered industrial plants and electricity in automobiles the demand for oil will not rise as rapidly as in the past. And, the free flow of foreign oil into this country could only insure that our domestic supply is preserved while we take from those with greater supplies than ours.

Our national security is not being threatened by cheaper foreign markets. Our domestic producers could supply the increased demand in time of crisis if foreign imports were cut off. Recent hearings before the Senate Antitrust Subcommittee have established conclusively that our oil producers could respond to meet the increased demand. In fact, the committee hearings concluded that if the quota system was abolished, two things would happen.

First, oil prices in this country would drop by $1.25 per barrel. Second, only 5 percent of the domestic production would be lost leaving 95 percent of our present supply of oil being sold at a respectable profit. In effect, then, the oil quota system amounts to $7 billion annual subsidy to 95 percent of the industry in order to protect the remaining 5 percent. Thus, as opposed to wrecking the domestic oil industry, the removal of the oil quota system would be the greatest boon to the industry in years. It would raise the level of efficiency by replacing the marginal production wells with the oil capable of being produced by the larger more economical operations. According to Henry Steele, an economist at the University of Texas, if the inefficient wells were forced out of production, production costs would fall 46 percent in Texas and 38 percent in Louisiana.

There are other reasons showing the weakness of the national security argument for retaining the oil import quota system.

First, we are no longer threatened by World War II situations. Nuclear war would almost certainly knock out our refining facilities before destroying our supplies. In fact we would probably have a huge oil surplus as opposed to a deficit.

Second, in time of crisis short of war, it is most probable that all our supplies would not be cut off simultaneously. During the last Middle East crisis, our huge imports from South America were not influenced at all. Certainly, our imports from Canada were not threatened.

Last, and probably most important, is the security of our Canadian supplies. If we can undertake extensive military operations with our Canadian neighbors, as is the case with the ABM, we certainly can depend upon them while fighting a war for our mutual protection.

In conclusion, reason dictates that we begin to dismantle the elaborate system of governmental regulations that presently place an unnecessary burden on the American consumer. To continue to hand out such large sums of money to one of the Nation's biggest and most powerful industries is unjust. In 1967 the industry had close to $60 billion in gross sales and close to $6 billion in net profits. Surely an industry of this size can take care of itself in the marketplace. We should begin by removing the present quota system which would allow free competition in the domestic oil industry possible. By doing this the State prorating programs would no longer be necessary because the small inefficient producers who are acting as a drag on the industry would slowly disappear, leaving a strong, efficient and resilient industry. And our total economy would benefit from this move.

SCHWENGEL CALLS FOR ACTION ON CRIME LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 10 minutes.

Mr. SCHWENGEL. Mr. Speaker, in late September the FBI released its latest statistics on crime, for the period January–June 1969. Would it not be gratifying to be able to say—at last—that we are beginning to make some inroads on slowing the relentless pace that crime has been setting in its march toward national disaster?

Instead, Mr. Speaker, I regret to report that the pace continues to accelerate. Violent crimes are up 13 percent over the statistics for the same period in 1968. Other crimes have increased in similar fashion.

Unlike the ordinary citizen, who in addition to the horror and shame that we all feel, must have a sense of hopelessness, we in Congress are in a position to do something about the crime situation.

Since his inauguration, President Nixon has sent us several proposals designed to give him new weapons for the control of crime. Despite their importance, not a single one has been enacted. Despite the President's message of October 13 on the urgency of the proposals here it is December and little progress has been made on them.

With the end of the current session in sight, it is apparent that we cannot afford to lose the sense of urgency which President Nixon intended to impart to us. I think it is time to refresh our recollection on the crime proposals and determine that we will take action on them.

ORGANIZED CRIME

To help him combat organized crime, the President on April 23 sent us a message in which he said:

> Today, organized crime has deeply penetrated broad segments of American life. In our great cities, it is operating prosperous criminal cartels. In our suburban areas and smaller cities, it is expanding its corrosive influence. Its economic base is principally derived from its virtual monopoly of illegal gambling, the numbers racket, and the importation of narcotics. To a large degree, it underwrites the loan-sharking business in the United States and actively participates in fraudulent bankruptcies. It encourages street crime by inducing narcotic addicts to mug and rob. It encourages housebreaking and burglary by providing efficient disposal methods for stolen goods. It quietly continues to infiltrate and corrupt organized labor. It is increasing its enormous holdings and influence in the world of legitimate business. To achieve his end, the organized criminal relies on physical terror and psychological intimidation, on economic retaliation and political bribery, on citizen indifference and governmental acquiescence. He corrupts our governing institutions and subverts our democratic processes. For him, the moral and legal subversion of our society is a life-long and lucrative profession.

Surely, Mr. Speaker, we all agree with the President that this disgraceful situation must be ended. For our part, the President did not ask for much. He asked merely for the enactment of four measures: A new broad general witness immunity law to enable the Government to gather evidence to strike at the leadership of organized crime and not just the rank and file; amendment to the wagering tax laws to enable the Internal Revenue Service to play a more active and effective role in collecting the revenues owed on wagers, and to increase the Federal operator's tax on gamblers from $50 annually to $1,000; a measure to make the corruption of police and local officials a Federal crime; and legislation making it a Federal crime to engage in large-scale illicit gambling operations.

The immunity proposal was introduced as H.R. 11157 on May 12. What have we done about these proposals? Hearings were held before a subcommittee of the Committee on the Judiciary on August 7. Although almost 4 months have passed since the conclusion of the hearings, the committee has yet to act.

The wagering tax proposal was introduced as H.R. 322 on January 3, 1969, and referred to the Ways and Means Committee. No action has been taken on it.

The corruption of officials and the illegal gambling business proposals were combined into a single bill, which was introduced as H.R. 10683 on April 29, and referred to the Committee on the Judiciary. No action has been taken.

DISTRICT OF COLUMBIA CRIME

One of the first communications sent to the Congress by the President was his message of January 31 on the crucial subject of conditions in the District of Columbia, and especially the matter of crime and the administration of justice in the District. He said:

> Responsibility begins at home.
>
> The District of Columbia is the Federal City, and the Federal Government cannot evade its share of responsibility for the conditions of life in the District.
>
> For many who live here, those conditions have become intolerable. Violent crimes in the District have increased by almost three times in the last 8 years; only a short time ago, the local newspapers carried a report that armed robberies had more than doubled in the past year alone.
>
> This evidence—raw, vicious violence, hurting most of all those who are poor and work hard—is the surface manifestation of far deeper trouble.
>
> These troubles have been long building. In part, Washington today is reaping a whirlwind sown long since by rural poverty in the South, by failures in education, by racial prejudice, and by the sometimes explosive strains of rapid social readjustments.
>
> Because its roots are deep and closely woven, crime in the District cannot be brought under control overnight. Neither can poverty be ended or hatred eliminated or despair overcome in a year. But we can begin.

He asked the Congress to amend the Bail Reform Act to enable the authorities to cope with the problem of crimes committed by persons already indicted for earlier crimes but free on pretrial release, H.R. 12806; to expand the authority of the District of Columbia Bail Agency to enable it to adequately investigate and supervise persons released pending trial, H.R. 12855; to reorganize and restructure the existing District of Columbia court system to make it more responsive to today's needs, especially in dealing with the criminal offender, H.R. 12854; and to make the District of Columbia Legal Aid Agency a full-fledged public defender system H.R. 12856.

We are doing somewhat better on the District of Columbia measures. All were submitted to us on July 11, and hearings on them were held in the Committee on the District of Columbia, H.R. 12854, 12855, 12856, and in the Committee on the Judiciary, H.R. 12806 this fall. However, none of the bills has yet to be reported out.

NARCOTICS

The President's message to Congress of July 14 urged the enactment of two measures designed to control narcotics and dangerous drugs. In sending them to us he said:

> Within the last decade the abuse of drugs has grown from essentially a local police problem into a serious national threat to the personal health and safety of millions of Americans.
>
> A national awareness of the gravity of the situation is needed; a new urgency and concerted national policy are needed at the Federal level to begin to cope with this growing menace to the general welfare of the United States.
>
> Between the years 1960 and 1967, juvenile arrests involving the use of drugs rose by almost 800 percent; half of those now being arrested for the illicit use of narcotics are under 21 years of age. New York City alone

has records of some 40,000 heroin addicts, and the number rises between 7,000 and 9,000 a year. These official statistics are only the tip of an iceberg whose dimensions we can only surmise.

In the Federal effort against the illicit narcotics trade, the administration has submitted a major revision of all Federal narcotics laws. This is the proposed Controlled Dangerous Substances Act of 1969, which was submitted to us on July 15. The draft bill was split in two: The narcotics provisions of it were introduced as H.R. 13742 and referred to the Committee on Ways and Means, and the dangerous drugs provisions were introduced as H.R. 13743 and referred to the Committee on Interstate and Foreign Commerce. No action has been taken on either bill.

To be especially noted is the fact that the administration has taken an enlightened approach on the need for differentiating between penalties for offenses involving hard narcotics and those involving marihuana. The administration recognizes that marihuana is not a narcotic drug but is rather an hallucinogenic and should be treated, in terms of regulation and sentencing, as an hallucinogenic drug. It also recognizes a need for more knowledge about the effects of marihuana, and supports a provision which will allow for a study into the causes and effects of marihuana use.

A related proposal, also submitted on July 15, was an interim measure to correct the constitutional deficiencies found by the Supreme Court to exist in the Marihuana Tax Act, in the notorious Leary case. This was introduced as H.R. 14790 and is under consideration by the Committee on Ways and Means. It has yet to be reported out.

PORNOGRAPHY

On May 2 President Nixon asked Congress: First, to make it a Federal crime to use the mails or other facilities of commerce to deliver to anyone under 18 years of age material dealing with a sexual subject in a manner unsuitable for young people, and second, to make it a Federal crime to use the mails, or other facilities of commerce, for the commercial exploitation of a prurient interest in sex through advertising, and third, to extend the existing law to enable a citizen to protect his home from any intrusion of sex-oriented advertising—regardless of whether or not a citizen has ever received such mailings.

Surely, Mr. Speaker, if there were ever legislative proposals deserving of prompt enactment by the Congress, these measures which are designed to protect America citizens from the barrages of the filth peddlers are so deserving. As the President said in his message:

American homes are being bonbarded with the largest volume of sex-oriented mail in history. Most of it is unsolicited, unwanted, and deeply offensive to those who receive it. Since 1964, the number of complaints to the Post Office about salacious mail has almost doubled. One hundred and forty thousand letters of protest came in during the last nine months alone, and the volume is increasing. Mothers and fathers by the tens of thousands have written to the White House and the Congress. They resent these intrusions into their homes, and they are asking for Federal assistance to protect their children against exposure to erotic publications.

What have we done about the proposals?

The protection of minors proposal was introduced on May 8 as H.R. 11031, and the prurient advertising measure, on the same date as H.R. 11032. The extension of the right to refuse mail is included as title II of the postal rate bill (H.R. 10877), which was introduced on May 4. Hearings have been conducted this fall on each of these measures, but none has yet been reported out of committee.

Mr. Speaker, I am confident that I will get little argument with the assertion that the legislative record we have made on the President's crime proposals is far from impressive. Imagine, not a single proposal reported out of committee. Several proposals not acted upon at all. We must do better than this. Time is running out.

VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. POLLOCK) is recognized for 5 minutes.

Mr. POLLOCK. Mr. Speaker, I want to discuss with you today a matter I feel is of vital importance to us all.

I am generally in support of President Nixon's position favoring deescalation of American participation in the Vietnam conflict.

During this past year, previous escalation of the Vietnam war has been reversed and this Nation has made substantial moves toward peace and disengagement.

But—and I feel this is very important—if we continue our deescalation, we must be absolutely certain that South Vietnam is not left defenseless and is capable of responding to any treachery on the part of the Vietcong. Otherwise, those of us who have suffered loss, injury, or death in Vietnam will have made a bitterly empty sacrifice.

Although the Vietcong and the North Vietnamese constantly fling the charge of "warmonger" at the United States, this enemy has not made one single small step toward responding to our attempts to obtain a just peace in Paris. While we negotiate in good faith in Paris, the infiltration rate from the north into the south increases. The United States, I fear, is engaged in an absolutely unilateral attempt toward peace.

Because of this bald evidence of bad faith on the part of North Vietnam, I feel that the United States must make it perfectly clear that we are capable of responding in strength to any evidence of escalation on the part of North Vietnam and that we are emotionally prepared to respond with vigor and determination should the enemy continue to escalate their aggression.

Some of us are expressing our discontent with the present war through massive demonstrations. Now I regard freedom of speech and dissent as a privilege of all Americans. But with right comes responsibility. I must oppose peace-at-any-price protestations and irresponsible attacks on an administration hard at work to arrive at a just and enforceable peace in Vietnam. I cannot regard such activity as anything other than providing comfort and aid to our enemy. To the extent we bolster the will of the enemy, to that extent we prolong the conflict and cause the loss of additional American lives. This is intolerable, and we cannot in good conscience sanction such activity.

"WITH THE BARK ON": VICE ADMIRAL KIDD'S REFUTATION OF OUR FIGHTING MEN'S CRITICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, in many recent public discussions of the condition of affairs in the United States one frequently reads alarming statements, including harping criticisms of our Armed Forces.

It was, therefore, quite refreshing to read a paper by Vice Adm. Isaac C. Kidd, Jr., USN, now commander of the 1st Fleet, recently published in the Officer, the magazine of the Reserve Officers Association, in which he relates much that is great about our country and refutes those who belittle the quality of our Armed Forces.

Admiral Kidd was commissioned on December 19, 1942, shortly after Pearl Harbor. Because he is the son of a distinguished naval officer and now has two sons serving in the Navy, his remarks have the power of the dedicated professional officer of high quality.

To enable a broader distribution of Admiral Kidd's appreciation of the greatness of our country and his devastating repudiation of some of the derision currently being aimed at our fighting men, I quote it as part of my remarks:

[From The Officer, November 1969]

"WITH THE BARK ON"

(By VAdm. Isaac C. Kidd, Jr., USN)

Several years ago, during the Supreme Court fight, Vice President John Garner was called to the White House for his views. He said, "Chief, do you want it with the bark on or off?" Gentlemen, I am going to try to give you a little look into my business today with the bark on. I think you can take it and from what I read—many need it.

Few organizations can so justifiably be proud of great contributions to the fabric of American life as can you. And few can be so proud of the kind of vigilance that has characterized the patriotic devotion to the quality of Americanism today. In significant measure, you in this distinguished group and organizations such as yours can take credit for the spirit and success of a great nation determined to maintain its greatness and contribute to the cause of peace throughout the world.

So at the very beginning, I want to extend my personal thanks for your many contributions to our Navy, to a truly wonderful nation, and I want to commend you for so selflessly responding to the needs of our country.

We have much going for us in this country, and it is perhaps well to remind ourselves of this from time to time. For example, in the next year alone:

More than 195 million Americans will not be arrested;

More than 115 million individuals will maintain a formal affiliation with some religious group;

More than 2 million teachers and professors will not strike;

More than 8 million of our young men will serve honorably in the armed forces of our country—active and reserve.

A LOT GOING FOR US

Of these, three million young Americans are in uniform right now—a uniform which is a new-found target for neo-subversives who deal in discredit—our Navymen and Marines number in the neighborhood of a million. I know you will share my feelings if I say that they represent one million reasons for saying that we have a lot going for us.

Whether it is in Viet Nam, or in our outstanding Sixth Fleet in the Mediterranean, I am able to state unequivocally that we have the finest group of young people in the services today that we have ever had in our history. We ask more of them than ever before: intelligence—technical knowledge—and education. Their duties require not only skill—but great courage and stamina to do the difficult job which they perform as a matter of routine.

To me, these young men represent the most important of our national resources and this causes me to make a sobering observation. To my knowledge, for the first time in our history, American fighting men are facing challenge without the usual cheers; making the sacrifice without the usual home-front support; performing service which is being *derided* rather than *dignified*.

As active, dedicated Americans, which you are, I know these matters are of the gravest concern to all of you—as they are to me and my associates in the Navy. I recognize that "good news is no news" on many of the mass media's yardstick for events and circumstances which capture the public's attention. Bad news, too often, attracts the headlines, as do difficulties rather than achievements, and controversy rather than resolution.

GOOD FACTS IGNORED

Let me cite one of the many such examples. Some weeks ago, we saw much about the number of servicemen who chose to absent themselves in the course of a year without authority to do so. What emerged was a sensational disclosure that, in effect, American military morale was suspect—that the disenchantment resulting from Viet Nam was infecting the armed forces.

No sensational disclosure was made, however, of the unclassified and readily available facts that:

Less than five percent of U.S. servicemen ever go AWOL;

Ninety-nine point nine percent of our men in uniform do not seek asylum in Sweden;

Since September 1965 to the present, some 47,000 Navymen have volunteered for duty in Vietnam;

Since September 1966, 100,000 Navymen stationed in Vietnam have voluntarily extended their tours for six months or longer;

Thirty-three thousand of our incomparable Marines in Vietnam have done the same.

In my opinion, we sell ourselves short by the mysterious affinity we have for focusing on the bad, the bizarre and the big. The bigness of defense, as you know only too well, is a key topic at the present time. Yet, in most of what I see or hear, very little is based on what I would call a reasonable perspective. In too many instances, we hear that defense has "gotten out of hand"—that it is too large and far too costly. Maybe this is so—if you like to lose. In my business though, there are no prizes for second place.

SAME SHARE FOR DEFENSE

What is overlooked or ignored is that we are very much involved in a war—one we did not start—and that its cost is somewhere in the area of 30 billion annually. In the face of this, another fact is to be counted: Defense gets approximately the same share of the Federal budget today that it got 10 years ago. The 78-billion-dollar arms budget for this fiscal year represents 43 percent of government spending. Ten years ago (FY 1960), the arms budget was 43 billion dollars, representing 47 percent of government spending. Popular belief and lip service notwithstanding, the plain fact is that our national investment in security is 4 percent smaller than it was during a time of relative peace.

Another fact to be counted lies in the defense cut of the budget related to the gross national product. It represents about 10 percent of the total spent on all U.S. goods and services; which, coincidentally, is about the same percentage Americans spend annually on all forms of insurance protection. It might be noted that the Soviet Union spends 16 percent of its gross national product on its armed forces.

What follows here is a passing reference to the so-called existence of an evil military-industrial complex. Based on the figures just cited—and the floating Navy's declining material condition which is well-known to you—if the cabal does exist, we should undertake to fire a few people at the top. Whoever they are, they have failed to earn their keep!

CLOSE COOPERATION NEEDED

In my opinion, there is no doubt that if we didn't have this close cooperation in our country where we have free enterprise, then we would not have the capability that we have today to utilize the advancements of science for the overall benefit of our country. . . .

Curiously, in his farewell address on 17 January 1961—the one in which he warned of the military-industrial complex—President Eisenhower balanced his assessments of threats and opportunities. For example, he warned Americans of a threat to their country as follows:

". . . We face a hostile ideology—global in scope, atheistic in character, ruthless in purpose, and insidious in method. Unhappily, the danger it poses promises to be of indefinite duration. To meet it successfully, there is called for, not so much the emotional and transistory sacrifices of crisis, but rather those which enable us to carry forward steadily, surely, and without complaint"—These are your professional fighting men to whom he refers. These thoughts, in or out of context, bear repeating and reprinting as the case may be.

Another point, which to me has equal validity although it seems to remain undiscovered, was voiced by the late President in these terms:

"A vital element in keeping the peace is our military establishment. Our arms must be right, ready for instant action, so that no potential aggressor may be tempted to risk his own destruction."

I don't propose to subject you to a reading of his address in its entirety, but I would add—for balance—one final dramatic passage concerning the same defense complex which today smarts from the wide-spreading effects of denouncements.

"Until the latest of our world conflicts," Mr. Eisenhower stated, "the United States had no armaments industry. American makers of plowshares could, with time and as required, make swords as well. But now we can no longer risk emergency improvisation of national defense; we have been compelled to create a permanent armaments industry of vast proportions."

EISENHOWER WORDS GOOD TODAY

Viewed in the climate of the time in which he made the address—and even today—the military man, the industrialist, the thinking American, should find no quarrel with any part of it. Where quarrel has been found, one might suspect the intention, integrity, or intelligence involved.

In closing, I would like to leave this thought. I have been in the Navy only 31 years, my father for 41, my sons for only five. In our years of service we have heard the owl and seen the elephant, as the saying goes. We have sailed the seven seas. We have visited many of the exotic ports of the world with shipmates, and have seen our sailormen enjoy themselves ashore. Only some of us have survived war. All have endured turbulent times short of war.

"For God and Country" is not a meaningless phrase to me, as I know it isn't to you. It is a simple statement of truth. We, the pros, have a duty to ourselves and to the likes of you that goes far beyond the simple day-to-day existence of life. Today, as almost never before, our country needs the support, assistance and the unity of all of our people.

We, your professionals, seek not accolades, but rather to be sure that you understand—and in understanding expect and demand no more than your investment in your country can guarantee. You, who have freely given much in the past, must be ready to hold the helm and steer the course that this magnificent country of ours will follow in the future.

Perhaps it would not be inappropriate to recall the words of Stephen Decatur, who proposed the toast, "Our country—may she always be right—but, right or wrong—our country."

NEW YORK CITY CONGRESSIONAL HEARING ON AUTOMOTIVE AIR POLLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FARBSTEIN) is recognized for 20 minutes.

Mr. FARBSTEIN. Mr. Speaker, on December 8, 20 New York and New Jersey Congressmen joined me in holding an ad hoc hearing on automotive air pollution in New York City. The hearing was held at the U.S. Customs Court House in Manhattan.

There has been a great deal of evidence with respect to the issue of automobile safety to suggest an attempt on the part of the auto industry to avoid its responsibility to take the public welfare into account. The purpose of our December 8 hearing was to explore whether the industry is following this same course of avoiding responsibility with respect to cleaning up the dirty air we breathe, air polluted by the internal combustion engine.

A suit filed by the Justice Department—United States of America against Automobile Manufacturers Association, Inc., and others—the auto industry alleged that the industry had been failing to meet its responsibility to develop devices to cut down on air pollution, not only by moving slowly in the development of such devices, but also by resisting their required use. We wanted to ascertain whether this is still the case.

Detroit has been telling the American people that it is not feasible to develop cleaner alternatives to the internal com-

bustion engine. If this be the case, we wanted to learn why four entirely independent Federal panels, a Senate committee and the California State Legislature, have all come to the opposite conclusion.

We also wanted to learn why it is that when the California Legislature was considering legislation to ban all automobiles not meeting high-pollution standards, a spokesman for one of the major auto companies said that such an engine could not be built, but 5 days after the bill had been safely defeated, the same person told a press conference that this company could have met the requirements of the bill.

In other words, we wanted to determine if a credibility gap exists between the auto industry and the American public.

Testifying before our committee were auto industry critic and consumer spokesman, Ralph Nader, and the vice presidents of General Motors and Ford Motor Co. In addition to them, we also heard testimony from three experts on the effect of auto pollution on our health and from a panel of experts on auto pollution technology.

I insert at the end of these remarks my statement at the hearing, and the prepared statements of Ralph Nader; Dr. Paul Chenea, vice president, Research Laboratories, General Motors Corp.; and H. L. Misch, vice president of Engineering, Ford Motor Co. I also include brief biographies of the seven health and technology experts who also testified.

The full transcripts of the hearing will be available shortly. The ad hoc committee expects to follow up this hearing with a report making specific legislative recommendations and the introduction of appropriate legislation.

The above referred to material follows:

STATEMENT OF THE HONORABLE LEONARD FARBSTEIN (D.-N.Y) HEARINGS ON AUTOMOTIVE AIR POLLUTION, MONDAY, DECEMBER 8, 1969, U.S. CUSTOMS COURT HOUSE, NEW YORK, N.Y.

Ladies and Gentlemen, we are all agreed, I am certain, the America of December, 1969 is automobile-oriented. Because of the lack of adequate public transportation and the increase in the number of highways, and the ability of the automobile to get us where we want to go, the people of this country have come to depend upon it as the primary source of transportation. For those associated with the automobile industry, the manufacturer primarily, this has meant high profits. It has also meant the expenditure of public funds to accommodate the increased demands—thus even insuring greater profits.

But along with these benefits there is also a set of responsibilities to the public which must be recognized by the industry—responsibilities to provide a safe vehicle and responsibilities to provide a vehicle which does not make our environment uninhabitable.

With respect to the safety issue, there has been a great deal of evidence to suggest an attempt on the part of the industry to avoid its responsibility.

The purpose of our hearing today is to explore whether the industry is following this same course of avoiding responsibility with respect to cleaning up the dirty air we breathe, air pollution by the internal combustion engine.

A suit filed by the Justice Department (U.S. of America vs. Automobile Manufacturers Association, Inc., et al.) against the auto industry alleged that the industry had been failing to meet its responsibility to develop devices to cut down on air pollution, not only by moving slowly in the development of such devices, but also by resisting their required use. We want to ascertain whether this is still the case.

Detroit has been telling the American people that it is not feasible to develop cleaner alternatives to the internal combustion engine. If this be the case, why have four entirely independent Federal panels, a Senate committee and the California State Legislature, all come to the opposite conclusion?

Why is it that when the California Legislature was considering legislation to ban all automobiles not meeting high anti-pollution standards, a spokesman for one of the companies testifying here today said that such an engine could not be built, but five days after the bill had been safely defeated the same person told a press conference that his company could have met the requirements of the bill.

In other words, we want to determine if a credibility gap exists between the auto industry and the American public.

These hearings will attempt to explore this question through testimony from experts both in and out of the auto industry.

Mr. Ralph Nader is scheduled to be our first witness. He will be followed by the auto industry, whose representatives will have time in which to present statements and then answer questions from the Congressmen present. Third on the schedule is a panel of four experts on the effect of auto pollution on our health. Following them is a panel of experts on auto air pollution technology. They will discuss what can be done to clean up the current engine, as well as the desirability and feasibility of alternative systems such as steam and electric. These hearings will culminate with statements by the representatives of General Motors and the Ford Motor Company followed by questions.

I wish to acknowledge that by their presence here today. General Motors and the Ford Motor Company have demonstrated an interest in the public health. I regret that Chrysler by their absence and refusal to allow high ranking officials to testify did not demonstrate a similar concern.

Some might conclude from this that the Chrysler Corporation is more interested in profits than in helping clean up our air. I certainly hope this is not the case and that Chrysler will join with us in future efforts to end air pollution.

STATEMENT BY RALPH NADER AT A PUBLIC HEARING ON AUTOMOTIVE AIR POLLUTION CONTROL, SPONSORED BY 21 NEW YORK AND NEW JERSEY CONGRESSMEN, FEDERAL CUSTOMS COURT HOUSE, NEW YORK CITY, DECEMBER 8, 1969

Mr. Chairman, concerned members of the New York and New Jersey Congressional delegation, you have convened this hearing to bring forth a greater understanding of the seriousness of automotive air pollutants to human health and the technical and institutional remedies and changes that are required now and soon. The panels of specialists will provide the basis for much concern and presumably some hope. In addition, the auto industry's second echelon spokesmen will provide you with their unfailing presentation of invulnerable intransigence clothed with suitably decorous displays presently in their 19th year of redundant refinement.

In the brief time available, I should like to comment on several consistent behavioral patterns of the automobile industry which have, are, and, unless stopped, will continue to deceive, delay, obfuscate and conspire against men of good will, men of political power and men of technical solutions.

Pattern No. 1. The top executives of the auto companies—the Chairman of the Board and the President—have never consented to testify before any governmental forum—federal, state or local—on their air polluting companies and products. When asked to testify, as they were for this hearing, they invariably delegate to corporate officials who speak with less authority and less visibility. Some Chairmen, like Chrysler's Lynn Townsend, decline even to reply and routinely dispatch Congressional inquiries to lower strata who in turn decline to have their company represented. The refusal of top executives to testify permits them to wallow in ignorance and indifference toward air pollution while they spend their days in high finance, sales, distribution and personnel policies. Unlike Senators, Representatives, Governors and Presidents who want to and are expected to meet their constituents, top chiefs of massive corporate states (GM grosses $2.4 million an hour on the average 24 hours a day with 750,000 employees) remain in their executive suites making decisions that reverberate life and death impact on their customers' health and safety. These corporate autocrats will not begin to feel the urgency of the pollution crisis until they are touched by subpoenas, spurred by indictments and shorn of their calculated anonymity.

Pattern No. 2. By their indifference, venality, and conspiracy, the auto companies are proliferating scales of violence throughout the land that have no parallel. Apart from their unsafely designed vehicles, these companies spew forth tons of carbon monoxide, hydrocarbons, oxides of nitrogen whose silent violence attacks the health of man. Adhering to the principle that the infernal internal combustion engine is to remain eternal, the companies still maintain that there is no need to control these violent emissions, except possibly in southern California. That remains to this day their basic philosophy and explains their determination to delay and deceive with impunity. Although the case has been settled via a consent decree, the Justice Department's charges that the auto companies and their Automobile Manufacturers Association conspired since 1953 to restrain the development and marketing of auto exhaust control systems stand as a reminder of the vast potential for members of this industry *to agree to do nothing.* This is the easiest of conspiracies, and one that was so blatant that these so-called competitors were caught last year giving identical speeches on air pollution through their coordinating co-conspirator, the Automobile Manufacturers Association. The recent initiation of antitrust suits by California, New York and Illinois should bring to public light the mass of documents produced by the five year long Justice Department inquiry before that agency surrendered claim to the antitrust case of the century. In the meantime, General Motors continues to be responsible for at least one-third of the nation's air pollution by tonnage by virtue of the engines it designs and the plants it operates. This is a GM produced violence that rarely invokes the demand for law and order to replace the anarchy that its predatory power has constructed and maintained. Because the emphysema, the cancer and other diseases that build up over time in the human beings are deferred consequences of such violence, which the law has not integrated therein into a structure of accountability. This is the style of technological violence produced by executives who keep their cuff links on.

Pattern No. 3. The auto companies refuse to identify the problems and the hazards from their products. It was not the industry, but a Professor at the California Institute of Technology who made the connection between auto exhausts and photochemical smog in the early Fifties. All efforts at auto pollution control by California began in earnest from this discovery. Thus the first step in curbing any health hazard—the discovery of its existence—has not been assumed by the industry to be its responsibility. This

is true to the present time. For although the law is only considering the three pollutants—carbon monoxide, hydrocarbons and oxides of nitrogen—three other serious pollutants—lead, asbestos and rubber tires—remain unrecognized and unstudied by the industry. Why should the companies make the connections with human disease when they can gain more time by waiting for outsiders to do so. The buildup of lead concentrations in the atmosphere, especially in the cities, is alarming scientists. (See *Scientist and Citizen*, April, 1968). Asbestos is receiving much more attention recently but not by the auto companies whose clutch and brake linings release it into the air. A Litton report prepared for the National Air Pollution Control Administration (HEW) this year noted that the latent period required to develop asbestosis, lung cancer, or mesothelioma is 20 to 40 years. The report state that "Asbestos is an air pollutant which carries with it the potential for a national or worldwide epidemic of lung cancer. . . ." The auto industry has produced nothing by way of research on the risks from this pollutant and how it can be reduced. Particulate and other polluting matter from the wear or combustion of rubber tires were called possibly the most serious form of vehicular pollutant by Professor Rene Dubos of the Rockefeller University who urged immediate study of this ignored area. Neither the tire nor the auto industries have spent a dollar trying to find out.

Practice No. 4. The auto industry has practiced a policy of prevarication and deception that has lulled and blunted the ardor of many legislators. Examples could be adduced ad infinitum; let a few suffice.

On March 3, 1953, Ford Motor Company wrote Mr. Kenneth Hahn, Los Angeles Supervisor, as follows: "The Ford engineering staff, although mindful that automobile engines produce exhaust gases, feels these waste vapors are dissipated in the atmosphere quickly and do not present an air-pollution problem. . . . The fine automotive powerplants which modern-day engineers design do not "smoke." Only aging engines subjected to improper care and maintenance burn oil."

On March 26, 1953, General Motors wrote Mr. Hahn that "The information that is available to us does not indicate that carbon monoxide is present in harmful amounts in the Los Angeles atmosphere and so we have not been concerned about the imminence of a serious health problem from this source."

Moving to the present, the deception continues but becomes even bolder. With a presumption that borders on pornography, Charles M. Heinen, of Chrysler Corporation, delivered a paper before the industry-indentured Society of Automotive Engineers in April 1969, entitled "We've Done the Job—What's Next? He goes on to say:

"I stated that we've done the job. [The main battle against automotive pollution has been won.] Now, let me summarize what we have done. Starting with the 1961 model and including the 1970 vehicles, the accumulate up-to-date record will show:

1. Hydrocarbon emissions down about 80%.

2. Carbon monoxide down about 70%."

This has become the official industry line. Observe the ease with which it can be overwhelmed with refutation. First, the industry ignores the importance or necessity of four other vehicular pollutants—oxides of nitrogen, lead, asbestos and rubber tire pollutants. There is abundant evidence of harm done by the first three and abundant need to find out about the latter pollutant. Second, the Heinen approach fails to account for the projected increase in vehicles and mileage travelled. As a Senate Commerce Committee report declared: (1969)

"The present emission standards will not stabilize, much less reduce vehicular air pollution. Studies indicate that, under existing controls, automobile air pollution in the United States will more than double in the next 30 years because of the projected increase in both the number of vehicles and miles driven by each vehicle. Ironically, under present emission standards, oxides of nitrogen emissions, the main villains in photochemical smog production, will be higher than they would be if no standards existed."

Third, the industry neglects specially vulnerable individuals such as the hundreds of thousands with respiratory diseases and traffic police who must work in environments having high vehicular emissions—to name two groups. These people have necessities that connot be ignored by national pollution control policy. Fourth, vehicular pollutants destroy hundreds of millions of dollars of property—as in agriculture—and cause vast dollar damage to other property. Since others, not the auto industry, bear this cost, the billions in property losses caused by an industry that refuses to be toilet trained are ignored in the deceptively optimistic orgies that go by the description of technical reports from the auto companies. Fifth, auto pollution is receiving increasing attention as a traffic safety hazard—ranging from the effect of carbon monoxide on drivers (GM recently recalled over 2 million vehicles because of this hazard) to reduction of driver visibility from smog on highways. Sixth, auto pollutants and the dirty, ugliness that they produce constitute a nuisance and aesthetic deprivation that alone should be sufficient for their prevention. Seventh, Heinen's and others' figures about reduction of carbon monoxide and hydrocarbons knowingly ignore the degradation of performance as the mileage increases. Federal regulations require that automobile emissions not exceed specified levels for carbon monoxide and hydrocarbons. Certification procedures by the National Air Pollution Control Administration are supposed to guarantee that emissions will not exceed the maximum allowable for 50,000 miles with one major tune up at 25,000 miles. However, an undisclosed, NAPCA financed study of the emission characteristics of Hertz vehicles indicated that 53% of the autos tested failed either the carbon monoxide and/or hydrocarbon tests after only 11,000 miles on the average. General Motors' failure performance was distinctive: 68% of the GM cars surveyed failed for either carbon monoxide or hydrocarbon at an average of 12,600 miles. The Federal testing of motor vehicles for compliance with the law is a shocking story which will soon be told in a coming report.

Practice No. 5. The auto companies have applied their considerable politico-economic power to avoid having to shoulder the burden of proof for their air violence. In a society with democratic control over its technology, it would not be up to the victims to have to show that a pollutant was harmful, particularly the kind that takes years to manifest its deadly impact on human beings; it would be up to the polluting company to show that its emissions were not harmful. The new cry of the students and the environmentalists to General Motors et al will be—"You prove its harmless or get it out of our air."

Practice No. 6. Having had great success in surrounding themselves with privileges and immunities, the auto companies have been able to keep their research and development budgets tiny. During the past two years, to illustrate the sense of priority, General Motors has spent $250 million to change over its signs to read "GM—Mark of Excellence." Judging by its technical output, its lack of change, its facilities and manpower devoted to R and D, GM could not possibly spend more than $8 million a year for system solutions to its vehicle's pollution. That amounts to about 3½ hours gross revenue. Such contempt for the inalienable rights of people to breathe pure air, coupled with industry-wide conspiracy, is a crime of staggering proportions for which there is no prosecution.

Practice No. 7. The auto companies' response to growing state and federal demands for pollution control has been to sustain the perpetuation of a grossly inefficient internal combustion engine by applying tack-on "solutions." During the past four years, these tack-on, rather than systemic, approaches have been produced with *decreasing* costs to the companies and *increasing* added price increases to the motorist. In addition, the cost of maintenance of these clumsy devices increasingly accelerates with every expanded objective. While promoting the myths of how much alternatives to the internal combustion engines would cost, the auto companies are bilking millions from motorists in order that their capital commitment to the conventional engine not be disturbed. It is critical for Congress to analyze at what point on the continuation is the most efficient absorption of the cost. Engineering history has shown that that point is the design boards. For example, company representatives are now providing an idea of how much it is going to cost California motorists to meet that state's forthcoming standard. In terms of increased fuel consumption and added price increases allegedly due to added devices, it will cost California new car buyers about $600 million in the first year. These kinds of figures are rarely stacked up against the cost of basic propulsion changes back in the motorcar plants. The external costs of the present internal combustion engine—health, property, fuel, consumption, price increases, maintenance, traffic crashes etc., vastly exceed initial, fundamental changes in the propulsion changes. But the auto companies, not the people or the government, makes these cost decisions. The auto subeconomy is a classically authoritarian system in this regard. In a period of our history when spectacular advances have been made in space, automated production machinery, computers and other areas, the auto industry continues to inflict the violent internal combustion engine-fuel combination on the public. With greater technological capability and affluence, the auto industry has had a commensurately greater ethical imperative to know the knowable and apply the solutions. The enormity of its criminal behavior grows larger every year. No longer should the people in this country delay in doing what should have been done in the 1920's and 1930's. It is recommended that the following action should be taken:

1. Vigorous antitrust enforcement to dissolve General Motors and restructure the auto industry under conditions that will generate competition for quality and safety.

2. The government should use its procurement powers and research-development funding to create maximum incentives for less polluting vehicles. This would include setting up a production capacity for nonpolluting or less polluting vehicles. There is ample precedent for this move in ——— less urgent areas—e.g. maritime B and D subsidy and the outright creation of a tax-supported private atomic energy industry. Without a government supported capability, the standards process will be controlled by the product-fixing policies of a collusive industry.

3. Existing air pollution control laws must be amended to provide for effective penalties and other sanctions to deter violators, for an expeditious recall power for correction at manufacturer expense, for strong in-plant investigation and inspection powers and for ample manpower to perform these missions. At present, millions of vehicles are produced that violate the pollution control standards. There is no way for the government to ascertain that the carefully tuned, prototype vehicles submitted for

testing by the auto companies are in any way similar to production vehicles. Sanctions must apply to corporate officials, not just the companies.

4. The principle of maximum technological feasibility must become a prominent guideline for federal policy. This is in accord with a new technological ethic that the machine adapts to the man. Quickly jettisoned must be the idea that our people must await two to three decades of medical studies before the human guinea pig evidence begins to bestir the auto manufacturers.

5. Strong, long-range cut-off dates should be established beyond which vehicles with certain levels of pollution can no longer be sold. Long-range decisive deterrents and heightened public expectations are built up in this manner.

6. A criterion of corporate insanity should be developed to apply to certain levels of indifference, insensitivity or venality. Once these levels are attained for any given area of corporate decision making—in this case, pollution—the corporate institution will lose its power over that area to the people. In the alternative, there could be a federal declaration of policy that the quality of air can no longer be intruded upon by corporate or other polluters as their private sewers. This would permit interesting policies and rights to emerge—such as constitutional change pressures toward a fundamental human right to a pure environment or taxation of polluters to such a degree that the companies decide it is cheaper to adopt the control machinery.

7. Above all, a new governmental policy of meticulous investigation of the auto companies to disclose illegal practices, technology suppression and other patterns of activity that slow or block pollution control progress is needed. Disclosure is reform's first step. To continue the present permissiveness of trying to understand these generators of air violence through the contrived statements of a number of company officials is similar to trying to understand China and the Soviet Union through the utterances of Kosygin and Mao. This nation applies more investigative manpower to one bank robbery than it devotes to the auto industry's violent activities. Those of us who have followed the tortuous path of the industry over the years can be forgiven the lack of patience displayed by public representatives newly exposed to the smooth semantics of corporate publicists. For us, the auto companies' assault on the biosphere must be stopped if only for the benefit of the young and still unborn generations who will never know what a breath of fresh air can be like.

I should like to request that the attached questions be asked of the auto companies as a start toward the necessary disclosures.

Thank you.

QUESTIONS

1. Under the Air Quality Act of 1967, motor vehicle manufacturers are asked to submit prototype models for testing to assure that evaporative and exhaust emissions are controlled in accordance with the standards established by the Secretary of Health, Education and Welfare. What steps has your company taken to assure that production line models conform to these prototypes with regard to the emission of pollutants? Please describe the quality control program as it relates to this problem.

2. Why have the Presidents and Chairmen of the Boards of the automobile companies consistently refused to appear before public forums to discuss their companies' efforts—or lack thereof—in the field of air pollution control?

3. Are the automobile manufacturers at all concerned with the fact that inner city residents—black slum dwellers and others sometimes called the "silent majority"—are subjected to massively greater quantities of pollutants from automobiles than are the residents of Grosse Pointe, Michigan and other suburban communities where the automobile executives lay their heads? If so, please produce the corporate studies which reflect this concern.

4. Why have the automobile companies raised prices for each of the last three model years, each time citing the cost of air pollution control as one reason, when there has been no significant change in that equipment over this period?

5. What research have the companies engaged in relating to the efforts of air pollution from automobiles on the following: automotive safety, health; property damage, vegetation, wildlife, climate?

6. Please indicate, for each engine-carburetor-transmission combination, exactly what quantities of the following pollutants are emitted over the life of each vehicle: Carbon monoxide, hydrocarbons, oxides of nitrogen, lead, asbestos, rubber particles and gaseous matter from tires.

7. What research have the companies undertaken to study the health effects of these pollutants? If they have not engaged in such research, why not? If they have, what have they done to alert the public to the health dangers of these pollutants?

8. Aside from claiming to meet inadequate federal standards, what have the companies themselves done to reduce these dangerous emissions?

9. Do the executives assembled here today agree that automobile industry executives should be subjected to personal criminal penalties for failure to adhere to federal standards for automobile exhaust emissions?

10. How much money have the companies spent, for each of the last five years, on research relating to steam, electric and other pollution free unconventional power sources for mass produced automobiles?

11. With regard to questions 5, 7, 8, 10 and 12, please compare the amount of money spent for those activities with the following: a) the annual advertising budget of the companies. b) the amount of money spent on bonuses and stock options for corporate executives.

12. Are the companies engaged in research to develop a cleaner burning fuel?

13. What is the position of the companies (individually) on federal standards limiting the emission of oxides of nitrogen, lead, asbestos and tire-related matter from motor vehicles?

14. The newspapers recently reported that the automobile manufacturers were engaged in research relating to electrically powered lunar vehicles. Will the fruits of this research result in similarly powered vehicles for mass production on earth? If so, how soon?

A STATEMENT OF GENERAL MOTORS CORP., BEFORE THE NEW YORK, NEW JERSEY CONGRESSIONAL PANEL, NEW YORK CITY, DECEMBER 8, 1969, PRESENTED BY DR. PAUL F. CHENEA, VICE PRESIDENT, RESEARCH LABORATORIES, GENERAL MOTORS CORP.

Representative Farbstein and other Members of Congress, I am Dr. Paul F. Chenea, a vice president of General Motors Corporation and in charge of the Corporation's Research Laboratories.

I am here today in response to your invitation to General Motors to appear before this panel of Congressmen from New York and New Jersey to discuss on behalf of General Motors the effects of the automobile on the air of the metropolitan area. I am accompanied by Dr. Fred W. Bowditch, director, emission control, of the GM Engineering Staff.

I have been associated with General Motors Research Laboratories since June, 1967. Prior to that I was vice president for academic affairs of Purdue University and acting dean of the School of Science, Education and Humanities from 1961 to 1967 and was a professor and administrator in engineering and mathematical sciences at Purdue during 1952–1961. I was on the University of Michigan engineering faculty during 1946–1952.

During those years I also was a consultant to government and industry.

In response to your invitation—and in an effort also to give perspective to the discussion before this panel—our report covers three broad areas:

1. A review of progress in reducing emissions from our current production cars.

2. What we are going to develop future power plants.

3. Some comments on the automotive contribution to the metropolitan area's air pollution problem.

Mr. Chairman, as discussed with you in reaching general guidelines prior to accepting the invitation to appear here today, we are under certain legal inhibitions in discussing any subject matter related to pending air pollution litigation, including a suit in New York State.

However, we do not believe that this in any way will limit our ability to present a meaningful report that will be useful to this panel. As you know, we want to cooperate with you, and we recognize the importance of presenting our views on metropolitan New York air quality problems.

At the outset, I want to emphasize that air pollution problems are taken very seriously by General Motors. We have already made substantial progress in reducing emissions from our engines—including a number of improvements adopted by others in the industry—and we are continuing to reduce emissions each year. But most important—and I cannot emphasize this too strongly—General Motors is and will be irrevocably committed to finding a solution to automotive emission problems at the earliest possible time. And in seeking solutions we will have no hesitation in using a power source other than the internal combustion engine if it will meet the needs of our customers, at a price they can pay, and will solve the emission problem.

We are concerned about the health and safety of the public. The cars we are producing right now—not some time in the future—are in themselves evidence of our concern. Our cars emit approximately 70 per cent fewer hydrocarbons than the unequipped cars of 1960; next year it will be 80 per cent. Carbon monoxide emissions have been reduced nearly 65 per cent in the same period.

Most importantly, while emission levels of our current cars are substantially lower than emissions of pre-control vehicles, achievement of the levels now being considered for 1975—and we certainly are hopeful of achieving them—would result in reducing auto emissions even further—with hydrocarbons 95 per cent and carbon monoxide 85 per cent below uncontrolled cars of 1960.

The facts clearly demonstrate that our current model General Motors' cars greatly reduce the automotive contribution to atmospheric pollution in the metropolitan New York area and other major urban areas of the nation.

This effectiveness of emission control systems on 1970 cars was recognized recently by a most eminent public authority on air pollution, Dr. A. J. Haagen-Smit. He is chairman of both California's Air Resources Board and of President Nixon's Task Force on Air Pollution.

Dr. Haagen-Smit discovered how photochemical smog found principally in the Los Angeles Basin is formed. He said in an address[1] last month that the sum total of

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[1] At Governor's Conference for California's Changing Environment, November 17–18, 1969, Los Angeles, California.

hydrocarbon and carbon monoxide emissions from motor vehicles on the road today are lower than they were last year.

He continued: "They will be even lower next year and the year after that. This is true even though we will have more cars each year. The decrease in total emissions will soon be true for oxides of nitrogen. The above are significant accomplishments and are ones that should not be casually accepted as having been easily accomplished."

This has been accomplished despite the number of older used cars that lack emission control equipment.

All of our air pollution work at the Research Laboratories has had three basic objectives: the understanding of the nature of atmospheric effects, the understanding of the nature of vehicle emissions, and the development of new control concepts.

We started intensive research into automotive emissions and their relationship to photochemical smog in 1952. The main effort in the beginning was to determine the nature of the problem and develop instruments needed in such research. As knowledge was gained, hardware was developed.

One of our first tasks was to develop techniques for analyzing trace components in exhaust gas. Automobile exhaust contains more than a hundred different hydrocarbons—some of which form photochemical smog a thousand times more readily than others. Some lead to eye irritation and some do not.

However, even today many mysteries remain concerning exhaust gas and the atmosphere. For example, carbon monoxide disappears from the atmosphere rather than accumulating, and the scientific community has never been able to determine where it goes. This illustrates the difficulties of the area in which we have been working.

We are participating in an $11 million, three year cooperative research program which was started in January, 1968, to find answers to such questions as to what happens to carbon monoxide. It is funded by the federal government, the petroleum industry and the auto industry.

We are also seeking answers to questions concerning the effect of pollution on plants, the causes of haze formations, the effect of low level carbon monoxide on human and animal behavior and the concentration of carboxy hemoglobin in the blood of various population groups in New York City.

Since 1952—when our intensive air pollution research program was launched—a great deal has been accomplished by General Motors. Systems have been developed to provide controls for all sources of emissions from the automobile—blowby gases from the crankcase, exhaust gases from the tailpipe and evaporative losses from the fuel tank and carburetor. These accomplishments have included the following:

1. The Positive Crankcase Ventilation control system (PCV) developed by General Motors.

2. The GM Air Injection Reactor system (A.I.R.).

3. The GM Controlled Combustion System (CCS).

4. Evaporative controls, which will become standard on our 1971 model cars.

These developments were aided immeasurably by the GM smog chamber—the first and largest privately-owned facility for laboratory simulation of actual smog formation—and the GM laboratory at El Segundo, California, to monitor exhaust emissions of the GM vehicles in the hands of the public. This was the first facility of this type in the industry.

We have taken the most productive steps first in achieving the 70 and 80 per cent reductions referred to earlier. The remaining, smaller segments will be much harder to achieve.

Regardless of what we have done so far—and whatever GM and other manufacturers may be able to do in the immediate future—we should all clearly understand a few facts as to existing problems that limit the impact of reductions achieved with new auto emissions on the total automotive pollution problem. For example:

The lower emissions of present model automobiles will not have full effect on air quality until older cars that lack effective emission control systems are eliminated from the vehicle population.

While we are working on the problem no practical system has been developed to retrofit older model cars with current, improved control systems, with the exception of PCV valves, which can be installed in pre-1963 model cars. PCV valves are available at GM dealerships, but owners of pre-1963 cars have shown little interest in having them installed.

Moreover, if there is a desire to speed up the impact of improvements on new cars, then:

Owners of cars must recognize the extreme importance of improved maintenance of emission control systems.

Changes in fuel will be needed, such as lower volatility.

Looking forward, we feel that it is our responsibility to develop the technology which, with time, can eliminate the automobile from the list of significant air pollution sources.

Reaching lower pollutant levels may require substantial technological breakthroughs in hardware and materials, or major modification of fuels—whether by alternate power plants or improved piston engines.

The required advances will be the products of research. Research is the product of ideas. Even unlimited sums of money do not assure the needed ideas.

Research is to manufacturing as prospecting is to mining. In research it is our business to explore, to learn, to know and to understand. Design for production comes later and is a different matter entirely.

In research we seek to prove that there are no laws of nature that prohibit what we wish to do. Making a production prototype is quite another matter.

The researcher makes apparatus which can be made to work in a laboratory. The production engineer strives to make devices which will not fail. An automobile, for example, which is produced in volume, not only must operate properly, but it must continue to function over a long period of time even when used under adverse conditions or not properly maintained.

To attain even lower levels of emissions of new vehicles we have intensive, parallel programs involving development of alternate forms of automotive power and improvements of the internal combustion engine.

There is no one, quick answer to the total problem. It will take contributions from many design parameters to minimize emission from any power source.

ALTERNATE POWER PLANT DEVELOPMENT AT GM

Now, let us look at the work we are doing on alternate power plants. Specifically, these include continuous combustion engines—that is gas turbines, steam and Stirling engines—as well as electric power systems and hybrids, which are combinations of two or more power plants.

Continuous combustion engines offer the opportunity for more complete, steady and, therefore, more precisely controlled combustion. They can be designed to have reductions perhaps 80 to 95 per cent below the emission level of the 1960-level uncontrolled internal combustion engine. This is an emission level to which the internal combustion engine can be reduced by further improvement.

One of the most promising continuous combustion engines is the gas turbine. Our gas turbine research dates back 20 years and has included experimental trucks, buses, and the first gas turbine automobile in the United States, built and tested in 1953.

For the immediate future, a gas turbine engine is scheduled for production by our Detroit Diesel Engine Division for trucks, buses and stationary applications. This power plant, aimed at the heavy vehicle market, will be a relative of the experimental gas turbine developed by the Research Laboratories a number of years ago. The GM turbine-powered bus will have an automatic transmission comparable to those in present buses rather than a manual shift.

While research indicates that the turbine is much better suited to the requirements of trucks and buses, we are working on designs for passenger cars, too. Disadvantages of the turbine for passenger cars in the present state of development include poor fuel economy and inadequate response in traffic.

One possible limitation on mass production feasibility of the gas turbine for passenger cars is the fact that a major required material is not available in sufficient abundance. Present turbine engine components require large amounts of nickel, perhaps more nickel than present free world availability. However, we are continuing to search for new designs and more available materials that could make this low emission engine practical for production automobiles.

As to steam engines, interest in research and development has been running high. Government-sponsored programs for the testing of steam-engine buses are underway in Dallas and San Francisco. At General Motors, we also have had a number of steam engine research and development programs in progress.

We exhibited two working steam engine test vehicles last summer at a "Progress of Power" exhibit. We are continuing to do experimental work with them.

One is a Chevrolet Chevelle, powered by a steam engine designed and installed by Besler Developments Inc. The second car, a Pontiac Grand Prix, contains an engine designed and constructed at the GM Research Laboratories.

We have found that size, cost, fuel consumption, serious lubrication problems and weight are formidable obstacles—not to mention the cold weather freezing problem.

An external combustion engine, the Stirling, is quiet, vibration free, and about twice as efficient as the steam engine.

The GM Research Laboratories have done development work on Stirling engines over the last 12 years. Our experimental hybrid Stirling-electric car, the Stir-Lec II, features a battery-powered electric drive system with the 8-horsepower Stirling engine driving an alternator for battery charging.

At its present state of development, the Stirling is bulky, heavy, complex and expensive. It requires materials not readily available in quantity, and both durability and maintainability are unknown. Our current research is directed toward designing lighter, smaller, less costly engines.

In addition to our work on petroleum-burning engines, General Motors has several active programs on electro-chemical energy converters and electric drives. We demonstrated our Electrovair II and other battery-powered cars at our "Progress of Power" exhibit. These vehicles, built as prototypes to gain more definitive answers in our research, were the products of several years of investigation into various electric drive vehicles. The Electrovair II, successor to Electrovair I built in 1963, was demonstrated in Washington in 1967 in connection with a Congressional hearing.

Our intensive investigations of the electric car have shown that the major advan-

tage of this vehicle is reduction of air polluting emissions.

We have researched and built a limited application or short range "shopper" vehicle—something between our compact-sized Electrovair II and a golf cart. Although slightly smaller than most electric cars built today, its performance characteristics are similar to those of other electric vehicles.

A vehicle of this type would be used almost exclusively for local shopping, driving to a commuter station, various short-distance community errand-type driving and other limited range transportation tasks.

A number of limitations compared to current all-purpose cars—at the present state of battery development—are imposed by this type of electric vehicle. For example:

Top speeds range up to approximately 45 miles per hour.

This poses a safety hazard if such vehicles are intermixed with larger cars on urban expressways and comparable roads where constant speeds of 40 miles and more per hour are maintained.

Besides initial cost, replacement of batteries approximately every two years could be expected to cost in the area of $200 in today's market.

Cold weather and passenger compartment heating would place heavy burdens on performance. Battery performance deteriorates in cold climates. At zero degrees Fahrenheit, a lead-acid battery will deliver only about 60 percent of the driving range and peak power that it will at 80 degrees.

A "shopper" that has a range of 40 miles on an 80 degree day would be cut back to a range of 24 miles on a zero degree day if the heater were not used, and only 12 miles if the heater were used.

In our battery work, we are faced with an age-old problem. For vehicular propulsion, a battery must deliver high power for acceleration and hill climbing, and it must offer high energy storage for traveling long distances. The lead-acid battery provides enough power but inadequate range. Fuel cell characteristics are just the opposite and the other concepts fall in between. Cost, size, weight and availability of materials represent a continuing challenge.

No one has yet produced a battery which meets all the requirements. We are continuing development work on some of the most promising contenders. One of these is the zinc-air battery, which has about three to five times the range performance of the lead-acid battery.

In addition, we are studying the lithium-chlorine cell. It has more than adequate power and the energy storage capacity is 10 to 15 times greater than a lead-acid system. However, it operates at extremely high temperatures in the neighborhood of 1200 degrees Fahrenheit. Vehicular application is still many miles down the road.

One major electric vehicle problem in the New York area is the availability of adequate power. As you know, problems related to both air and thermal pollution have limited the utilities in expanding economical power availability. Power supplies are expected to be so tight in the summer of 1971 in New York, according to a recent report in Business Week, that the utility company is said to be planning to mount emergency power generators on barges around Manhattan Island. Nationally, utility companies are expected to increase generating capacity fourfold by 1990 just to meet normal demand. This expansion does not provide for capacity that would be needed to recharge batteries of electric vehicles.

In addition to problems related to potential inadequacy of power supply in some locations, shifting motorists from present passenger cars to electric vehicles could produce side-effect problems. True, use of battery-powered vehicles would eliminate auto emissions. However, generating additional electric power to charge the batteries could result in increased pollutants emitted by stationary sources.

In summary, some of the various alternate power plants that we are investigating have more promise than others in certain respects and our development programs on these concepts will continue. However, in view of the apparent shortcoming of these alternate power plants in various respects, we have continued to work intensively on further development of the internal combustion engine. We will now review this work.

GM DEVELOPMENT OF IMPROVED INTERNAL COMBUSTION ENGINE

Our programs in General Motors to provide additional reductions of emissions from the internal combustion engine have produced most encouraging results. We have been able to obtain very low emission levels with experimental engines in the laboratory.

Exhaust manifold reactors are one of the routes to still lower emissions from the internal combustion engine. Basically, these are large volume exhaust manifolds from two to four times the size of conventional manifolds. These are devices to consume gases in the exhaust. Their effectiveness depends upon the temperature that can be maintained and how long the exhaust gases mixed with additional air can be kept at the elevated temperature.

Extremely low levels of emission compared to even the currently controlled emissions have been obtained. This effectiveness is offset by a number of problems which we are trying to solve. The principal problem is that of a material. We need heat-resistant material that is longer lasting than any available today.

Another system also involves enlarged manifolds but does not require added air and does not have the fuel economy penalties and high temperature material problems of the previously described reactors. However, these lean-fuel manifolds do not produce as low emission levels, and there are difficulties in providing satisfactory engine operation.

We have actively conducted efforts to apply catalytic control to exhaust emissions—an effort started in the middle 1950's. To date we have been unsuccessful with any catalyst if the gasoline fuel contains lead. The catalysts are rendered inert in a relatively short mileage when leaded gasoline is used.

Our work now is concentrated on catalysts for use with unleaded fuels. We have found that this approach is very effective in further reducing emissions from the internal combustion engines.

However, this success has been attained with precious metal catalysts which require material limited in availability. Problems of catalyst durability and temperature control must also be solved.

A number of other techniques for emission improvement have been developed which show promise as an aid in attaining lower emissions. These involve combustion chamber design, fuel injection, valve timing optimization and exhaust gas recirculation.

Our studies and experience with these experimental systems have indicated that an improved piston engine has the potential to provide the same very low level of emissions of carbon monoxide, hydrocarbons and nitrous oxides achievable with the gas turbine, steam or Stirling engine.

As a result, selection among these power plants for future production will be based upon characteristics other than emission level. Further, we believe on the basis of the problems yet to be solved that we will be able to achieve a production version of the improved piston engine earlier in time than any of the alternate power plants.

This makes it clear that we must continue to develop the improved piston engine if we are not to delay that advent of still lower emission level automobiles.

Considering all the relative advantages and disadvantages of the various power plants which might be used in automobiles, the internal combustion engine offers at present the best pollution control value. All of the potential power plants must be measured against each other on the basis of emission level potential and value—in all its aspects—to the owner of the car.

We would like to make it absolutely clear that General Motors has an open mind as to power plants for automobiles and will continue to explore all possible alternatives.

"PROGRESS OF POWER"

Recently, we demonstrated to many scientists and others interested in power plant development some of the latest results of our continuing investigation of various possible forms of automotive power.

We showed examples of working, experimental propulsion systems at a "Progress of Power" exhibit at our Technical Center near Detroit. These experimental designs still under investigation included both alternate power plants and improved internal combustion engines. We are continuing our work to develop these laboratory prototypes toward manufacturing feasibility.

A booklet containing copies of reports on these various power plants is submitted with this statement.

We invite you to visit the GM Technical Center to see these vehicles and, more importantly, the work we are doing in emission control research and engineering.

PROBLEMS RELATED TO LEAD IN GASOLINE

All the gasoline-burning engine approaches reviewed previously have important fuel composition requirements if we are to achieve maximum control of emissions.

The most important of these is the elimination of lead from gasoline. Lead creates several problems, such as making exhaust manifold reactors less effective and destroying effectiveness of catalysts.

Use of leaded gasoline rather than gasoline without lead may also cause greater emission control deterioration with accumulation of mileage due to combustion chamber deposits. Also, lead deposits form rapidly in some of the narrow passages which form a major part of some contemplated control system.

Recently, various government agencies have indicated interest in eventual control of particulates from automobiles. By far, the major share of such particulates are lead or lead products. If significant reduction in these particulate levels is to be achieved, lead must be removed from gasoline.

THE IMPACT OF AUTO EMISSIONS ON POLLUTION

We have talked so far about the automobile and what we have done and what we are trying to do with respect to auto emissions.

As we go further down the road, reduction of car emissions to an acceptable level would solve only the automotive emission segment of the total air pollution problem.

We are confronted with far-reaching air quality problems that will not be solved even with reduction of auto emissions to zero. This is a fact beyond question. Air pollution will not go away just by restricting auto emissions.

AUTO EMISSIONS AND METROPOLITAN AIR POLLUTION

Now let us turn to the data on metropolitan New York's atmospheric pollution problems.

There have been a variety of opinions expressed as to the sources of the metropolitan area's polluted air. Admittedly, the automobile is a contributor to the problem.

There is a tendency to measure gross tonnage and place equal value on all the various types of pollution tonnage in the atmosphere. This type of assessment is misleading.

The tonnage figures should be weighted by the potential harm to health that any given type of pollutant will produce. Even this does not give adequate recognition to time concentration or dosage.

Nevertheless, if we use assessments of the toxicity of the various types of pollutants to modify the tonnage, we obtain a more factual picture of the importance of the individual pollutants in a city's atmospheric problems.

Pollutants present in metropolitan atmospheres include hydrocarbons, carbon monoxide, nitrous oxides, sulfur oxides and particulates.

On a tonnage basis, slightly over 50 per cent of the metropolitan air pollutant volume is attributable to automobiles.

Because carbon monoxide is the largest tonnage pollutant emitted to the metropolitan atmosphere, it is often assumed that this is the principal metropolitan area pollution problem. Since most of the carbon monoxide comes from automobiles, it is further assumed that the automobile is the major cause of this area's pollution problem.

According to government figures, carbon monoxide is far less significant in terms of potential harmful health effect than are many other pollutants.

If potential health harm of these individual pollutants is considered as well as tonnage, the relative importance of present levels of carbon monoxide in the atmosphere becomes much less. Rather than being responsible for more than 50 per cent of the problem, automobile emissions become less than 10 per cent of the metropolitan air pollution problem.

We think this type of assessment is important in keeping in proper perspective the relative role of the automobile in contributing to harmful pollution. This does not mean, of course, that we believe there should be any relaxation in efforts to control emissions from the automobile, but it does mean that the government at all levels should at all times keep the total problem in mind.

Thus, it follows that regardless of the improvements in automobile power plants, air pollution will continue to be a problem and will continue to concern all citizens and governments for many years.

This is a by-product of our continuing urban growth, population growth and the proliferation of additional products that have their own role in atmospheric pollution. Just as we are dedicated to reducing auto emissions, General Motors supports all useful efforts to find solutions to other sources of atmospheric pollution. This is a big job, and all of us as good citizens must work toward the goal of cleaner air.

For our part, we have undertaken extensive projects to control emissions from our manufacturing facilities, as well as emissions from the cars we produce.

The criteria established in studies of what represents suitable air quality should become the basis for control standards with which automobile manufacturers and all other contributors would comply, taking into account both technological and economic feasibility.

The automobile industry can perform most effectively in reducing emission levels if stable standards are set sufficiently far in advance to allow time for development of an optimum approach to solution of the problem.

In closing, let me assure you that General Motors will do its part in the effort to find means to reduce automotive pollutants. We are working hard to develop alternate power plants. We believe, on the basis of our work, however, that the internal combustion engine currently is the best overall power plant in terms of all value considerations.

It is our firm conviction that auto emissions will diminish satisfactorily, and we are determined to eliminate the contribution of the automobile from the list of significant pollutant sources.

Thank you.

STATEMENT BY H. L. MISCH TO CONGRESSMAN LEONARD FARBSTEIN AND OTHER MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES FROM NEW YORK, NEW JERSEY, AND CONNECTICUT, NEW YORK CITY, DECEMBER 8, 1969

Mr. Chairman: I am Herbert L. Misch, Vice President—Engineering, Ford Motor Company, and with me today are Donald A. Jensen, Director of our Automotive Emissions Office and Ross Taylor, Assistant Chief Engineer, Ford Motor Company's engine engineering. At your request, I am here today to describe briefly the efforts of Ford Motor Company to control emissions from our vehicles, the impact of our programs on air quality, particularly in the greater New York City Metropolitan area, and to discuss what we are doing in the area of alternate power sources and their prospects for application to motor vehicles.

First of all, Mr. Chairman, we recognize the seriousness of the air pollution problem in the metropolitan New York area. That problem has been delineated in the 1967–68 Progress Report of the Department of Air Resources of New York City.[1] According to this report, the principal pollutants in the New York Metropolitan area are sulfur dioxide, carbon monoxide and particulate matter. The automobile emits two of these pollutants—CO and particulates. It also emits hydrocarbons and oxides of nitrogen. Because we are aware of no evidence that HC and NO_x pose a significant problem in this area, I will direct my remarks to the two problem pollutants—carbon monoxide and particulate matter.

To set the carbon monoxide problem into perspective, I would like to quote from the City's Department of Air Resources report. It states,

"Carbon monoxide has long been identified as one of New York City's major pollutants. It has been estimated that 1.5 million tons of carbon monoxide are emitted, on an annual basis, into its atmosphere with most of it coming from automobiles. And yet measurements over the last 10 years at the City's principal monitoring site in upper Manhattan, rarely indicated levels of carbon monoxide that could be construed to be of concern. However, data collected from 1966 to 1967 in a more detailed study showed that a number of areas in the City experienced greater than desirable levels of carbon monoxide."

I want you to know that we have already accomplished a major reduction in the amount of carbon monoxide emitted by recent model automobiles. Our 1970 model cars emit about 70 per cent less CO than did their 1967 counterparts. It should be clear that these improvements will go a long way toward elimination of the automobile's contribution to carbon monoxide levels in the atmosphere of New York City.

With respect to particulate matter, this same report states that 88.6 per cent of the particulates in the New York-New Jersey area arise from sources other than motor vehicles and it establishes that the majority of that 88.6 per cent is attributable to such sources as space heating, incineration and power generation.

With respect to the remaining 11.4 per cent attributed to mobile sources, we know that lead additives in gasoline are responsible for a part of it. But, we also know that even if there were no lead additives in gasoline, the automobile would still emit some particulate matter. My point is that we do not yet know as much about the medical, engineering and scientific aspects of this problem as we must in order to address it intelligently and, in this connection, are working to advance the state of the art.

I do not mean to underplay the role of the automobile as a contributor to the emission problem in New York City, but rather to give a balance perspective to the overall problem.

Mr. Chairman, in spite of the certitude reflected by some of the statements made this morning, there remain even at this late stage of the evolutionary process—an amazing number of unknowns relative to the atmosphere in general, the thresholds of toxicity and the synergistic effects of various contaminants of the atmosphere. In other words, we—government and industry—still do not know enough about the vagaries of the atmosphere to be certain how much of any given pollutant is "safe" or "harmful."

Although the responsibility for this definition resides primarily in the government, we are attempting to aid in this effort through, among other things, the support of a research program managed by the Coordinating Research Council. This 13 million dollar program is funded by the auto and petroleum industries and the Department of Health, Education, and Welfare.

Experts from each of these entities, totaling over 200 scientists, engineers and medical doctors organized in 32 committees, aid in the management of this program through the Air Pollution Research Advisory Council known as APRAC.

The research efforts include atmospheric studies such as plant damage by air pollution, fate of carbon monoxide in the atmosphere, origin and importance of haze formation, the source and fate of light hydrocarbons in the atmosphere, as well as study programs to measure and identify particulate matter. Medical projects include studies of the effects of low concentrations of carbon monoxide on behavior, cardiovascular activity, blood effects, and so on.

I am not here to suggest that further action on the air pollution problem should await further definition of the specific needs. However, I am sure you will agree that the more certain all of us are of the relevant facts, the better able industry will be to solve the problem and the more informed government's appraisal will be of the cost and performance relationships implicit in compliance with the new and more stringent emission standards.

Now I would like to address the remainder of my comments to the subjects about which you and the other members of Congress here today have deep concern, what Ford is doing to reduce vehicle emissions.

First, let me discuss alternate power sources.

Although we have prepared rather elaborate paper studies and carefully analyzed all publicly available literature on the subject, we have found no cause to become optimistic about the Rankine cycle engine. In a Senate Committee hearing in Washington in May, 1968,[2] I indicated that, in our opinion, the Rankine cycle was too complex and fraught with too many seemingly insoluble problems to be considered a likely successor to the internal combustion engine. We have found nothing since that time to alter our evaluation of the Rankine cycle.

Our activities in electric vehicle research were described to Senate committees in March, 1967, by Dr. Michael Ference, Vice President of Ford's Scientific Research Staff.[3]

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[1] "Approaching the Clean Air" 1967–68 Progress Report, Department of Air Resources, New York City, January 1, 1969.

[2] Testimony of Mr. L. Misch, Senate Committees on Commerce and Public Works, May 27, 1968.

[3] Statement by Mr. M. Ference, Jr., Senate Committees on Commerce and Public Works, March 16, 1967.

He cited the development work on a concept battery—sodium-sulfur—a zinc air battery concept, improved motors and control systems. It was pointed out that Ford Motor Company had hopes that these major advances in battery development and in control and motor technology might give the electric vehicle a good chance to succeed as a small urban-suburban passenger car and delivery or service vehicle within a decade.

Then, as now, the principal problem was to find ways to minimize the electric vehicle's disadvantages of short range, poor speed and acceleration and hill climbing and long recharge time compared with the quick refueling of gasoline powered cars.

Our position is essentially unchanged today. Problems associated with the fabrication of sodium-sulfur batteries have proved to be more difficult to solve than had been anticipated. As a result, we are nowhere near as far along at this time as we hoped we would be. Also, the hoped for short range potential of air-zinc and nickel-zinc batteries did not materialize.

Some research with lead acid batteries appears promising. This development, if successful, would permit the production of a city car with about 40 miles range in city driving. This represents a two-to-four-fold improvement over previous technology. It also has been the motivation to re-examine the hybrid engine, electric vehicle concept.

The most promising of all alternate power sources, in our opinion, is the gas turbine engine. Emission levels of hydrocarbons and carbon monoxide from gas turbines appear to be extremely low; however, there is some question as to the level to which oxides of nitrogen can be controlled.

We have been devoting an important share of our research, engineering and testing to this engine during the past 15 years. Three years ago we introduced our experimental 707 turbine, a seventh generation turbine engine designed by Ford engineers. The 707 was designed specifically for heavy duty trucks. We have tested these engines for thousands of hours on dynamometers and at our proving grounds in Michigan and Arizona. Some 18 months ago we installed the engine in a few of our own fleet trucks which haul Ford parts from Michigan to our plants in Ohio. Results have been very encouraging, but work must continue to develop adequate durability and performance.

We have extended our turbine activities beyond truck application and, earlier this year, launched a program for application for off-road uses, such as stand-by generator sets, oil well cementing, construction machinery and marine pleasure craft. We also have installed a gas turbine engine in a Continental Trailways bus which soon will be making a test run across the country.

Application to automobiles is still a bit down the road. However, preliminary analysis indicates that the use of gas turbine engines in passenger cars would entail a significant cost penalty and, in the case of city driving, high fuel costs. These cost and technical factors will have to be overcome before the gas turbine can be considered as an attractive substitute for the internal combustion engine in passenger cars.

Whether or not any of these alternate power sources ever proves to be worthy of becoming a volume-produced power plant remains highly speculative at this point. The near term improvements for vehicle emissions must be realized from the internal combustion engine system. Further, we think any objective analysis of the evidence supports our conclusion that the goal of a virtually emission free power source can be reached sooner with the internal combustion engine than with an entirely different and unproven power plant.

For these reasons a greater share of our efforts is directed toward the control of emissions from the internal combustion engine.

One very substantial program dedicated to these future improvements is what we term the Inter-Industry Emission Control Program. It is comprised of Ford and ten other companies, six of which are petroleum companies and the other four foreign auto manufacturers. The IIEC was established in April, 1967, with Ford Motor Company serving as project manager.

The IIEC utilizes the respective talents of petroleum and automotive specialists in the quest to develop a virtually emission free car. Some very ambitious goals were set. Program targets are 65 ppm hydrocarbons, 0.3 mole per cent carbon monoxide and 175 ppm oxides of nitrogen. These emission targets represents a 90–97 per cent reduction from pre-emission controlled vehicles.

We have attained these very low levels in the laboratory and now have a program involving concept cars utilizing advanced hardware and undergoing tests at our proving grounds to determine whether or not these approaches are feasible in terms of durability, operating economy and performance. We are proceeding at full speed to reach the necessary conclusions, and should these tests show promise, we will explore the adaptability of these concepts to mass production techniques.

Gentlemen, I submit that our progress to date and our future objectives which we confidently expect to attain in the control of emissions from the internal combustion engine will serve our mutual objective of providing clean automobiles and a better environment for everyone. As Mr. Henry Ford II said last Tuesday (December 2) in an address at the Harvard Business School, "It doesn't take much imagination to see that before too many years have gone by, the only market left for motor vehicles will be the market for vehicles that are virtually emission free."

In closing, let me assure you that Ford Motor Company intends to be an aggressive participant in that market.

BIOGRAPHIES OF EXPERT WITNESSES

HEALTH PANEL

Stephen M. Ayers, M.D.: Associate attending in Department of Medicine, New York Universty Medical Center; former Chairman Manhattan Action for Clean Air Committee; Member, U.S. Surgeon General's Subcommittee on Cardiovascular Aspects of Smoking and Health and the Medical Advisory Committee, New York City Department of Air Pollution Control.

William Cruce: Rockefeller University, neurophysiology studies, lectured widely in New York and testified before legislative bodies; Member Air Pollution Committee, Scientist Committee on Public Information (will be testifying as a representative of the Committee).

Austin Heller: Commissioner of Air Pollution Control, New York City.

LOW POLLUTION TECHNOLOGY

Robert U. Ayres: Vice President, International Research and Technology Corporation; former technological-environmental specialist, Resources for the Future; member Hudson Institute, former theoretical physicist.

S. Smith Griswold: President Seversky Environmental Dynamics Research Associates; former chief, abatement branch, Division of Air Pollution, Department of Health, Education, and Welfare; former air pollution control officer, Los Angeles County Air Pollution District; former president Air Pollution Control Association; member Surgeon General's Environmental Health Committee; credited with initiating Justice Department air pollution suit against auto industry.

Wolfgang E. Meyer: Professor of Mechanical Engineering and Chairman Traffic Safety Division, Transportation and Safety Center, Pennsylvania State University; panelist, motor vehicle pollution, 1962 National HEW Air Pollution Conference; researcher on the internal combustion engine and its emission levels.

Richard S. Morse: Alfred P. Sloan School of Management, Massachusetts Institute of Technology; former chairman Federal Panel on Electrically Powered Vehicles; former assistant Secretary of the Army; former president, National Research Corporation.

EIGHTY-TWO CONGRESSMEN JOIN IN CALL FOR "ENVIRONMENTAL DECADE"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, on Friday, December 5, 1969, I was joined by Mr. DINGELL, Mr. GUDE, Mr. HICKS, Mr. MCCLOSKEY, Mr. MOSS, Mr. SAYLOR, Mr. VANDER JAGT, and Mr. WRIGHT in a call for designation of the 1970's as the "Environmental Decade" and in forwarding an action program for cleaning up our environment in the coming decade.

Since then, a bipartisan group of 73 Congressmen of all ideological persuasions have endorsed that call.

This response is testimony to the growing awareness in Congress of the environmental crisis that confronts us today, and to the need to assign the highest priority—backed up with substantial funding—to the job of cleaning up our air, land, and water in the coming decade.

The list of additional Congressmen now endorsing the call for the "Environmental Decade" and the action program for cleaning up our environment follows:

LIST OF ADDITIONAL CONGRESSMEN SPONSORING "ENVIRONMENTAL DECADE"

Lee Hamilton (D-Ind.).
Ken Hechler (D-W. Va.).
Robert Tiernan (D-R.I.).
Lester Wolff (D-N.Y.).
Donald Lukens (R-Ohio).
Jorge Cordova (D-P.R.).
Robert Mollohan (D-W. Va.).
Silvio Conte (R-Mass.).
John Wydler (R-N.Y.).
Joseph Addabbo (D-N.Y.).
William Harsha (R-Ohio).
Robert Leggett (D-Calif.).
Otis Pike (D-N.Y.).
John Melcher (D-Mont.).
Leonard Farbstein (D-N.Y.).
G. William Whitehurst (R-Va.).
Fred Rooney (D-Pa.).
James Scheuer (D-N.Y.).
Joseph Karth (D-Minn.).
James Grover (R-N.Y.).
R. Lawrence Coughlin (R-Pa.).
Edward Koch (D-N.Y.).
Edward Patten (D-N.J.).
Peter Kyros (D-Maine).
Michael J. Harrington (D-Mass.).
Henry Helstoski (D-N.J.).
Thomas Ashley (D-Ohio).
William Moorhead (D-Pa.).
F. Bradford Morse (R-Mass.).
Glenn Cunningham (R-Nebr.).
James Corman (D-Calif.).
Nick Galifianakis (D-N.C.).
Mario Biaggi (D-N.Y.)
Mel Price (D-Ill.).
James Hastings (R-N.Y.).
Arnold Olsen (D-Mont.).
Robert McClory (R-Ill.).
James Symington (D-Mo.).
Joseph Vigorito (D-Pa.).
William Steiger (R-Wis.).

Herman Schneebeli (R-Pa.).
Richard T. Hanna (D-Calif.).
Robert Kastenmeier (D-Wis.).
Peter H. B. Frelinghuysen (R-N.Y.).
Allard Lowenstein (D-N.Y.).
Richard Ottinger (D-N.Y.).
Benjamin Rosenthal (D-N.Y.).
Morris K. Udall (D-Ariz.).
Sidney Yates (D-Ill.).
George Brown (D-Calif.).
Patsy Mink (D-Hawaii).
Abner Mikva (D-Ill.).
Charles Teague (R-Calif.).
Daniel Button (R-N.Y.).
Clement Zablocki (D-Wis.).
Andy Jacobs (D-Ind.).
Hastings Keith (R-Mass.).
Don Riegle (R-Mich.).
John Blatnik (D-Minn.).
Garry Brown (R-Mich.).
Marvin L. Esch (R-Mich.).
David Obey (D-Wis.).
Thomas M. Rees (D-Calif.).
James C. Cleveland (R-N.H.).
Augustus F. Hawkins (D-Calif.).
Thomas S. Kleppe (R-N. Dak.).
Dante Fascell (D-Fla.).
William F. Ryan (D-N.Y.).
Donald Fraser (D-Minn.).
John Brademas (D-Ind.).
Glenn M. Anderson (D-Calif.).
John V. Tunney (D-Calif.).
Margaret Heckler (R-Mass.).

A CALL FOR THE ENVIRONMENTAL DECADE

We today call for the designation of the decade of the 1970's as the Environmental Decade. Next New Year's Day, January 1, 1970, would be a good time for all Americans to make a New Year's resolution for the decade:

"I pledge that I shall work to identify and overcome all that degrades our earth, our skies, our water, and the living things therein, so that the end of the Environmental Decade of the 1970's may see our environment immeasurably better than at the beginning."

As Members of Congress specially concerned with the conservation of our environment, we make a special pledge to work diligenly on a broad series of fronts:

1. WATER

a. All over the country, man is running out of sources of usable water. The decade must see the development of workable desalination and recycling processes, and better methods of preventing waste by evaporation and other causes.

b. Almost every lake and stream in the Nation is becoming more and more polluted. Half-hearted standards for averting water pollution should be raised, so as to require everywhere water good enough for people to enjoy. Our present programs to eliminate pollution from municipal, industrial and agricultural sources are tragically inadequate. At least $30–$50 billion needs to be spent in the next five years for new municipal treatment works, separation of combined storm and sanitary sewers, industrial waste treatment facilities and for research and development of new anti-pollution methods. The response to the manifest need has been wholly inadequate. For example, Congress authorized $1 billion for water pollution treatment this year, but the appropriations request from both the Johnson and the Nixon Administrations has been for a ridiculous $214 million.

c. It is not enough to clean up our waters after they have been polluted. Effort must be made to find and eliminate sources of pollution before they begin. For example, the Government Operations Subcommittee on Conservation and Natural Resources will hold hearings shortly to determine why the soap and detergent industry continues to use phosphate as a leading ingredient of household detergents, when it is well known that these same phosphates are a leading cause of the eutrofication—death by overfertilization—of so many of our waters.

d. A new and alarming form of water pollution is overheating of water—thermal pollution—caused by fossil-fuel and atomic power-generating plants. Destructive overheating must be stopped.

e. Wetlands and estuaries are where land and water meet. Destroy them, and we destroy the areas where our fish and wildlife breed, and where the air we breathe gets its start. Yet destroy them we do, whether with the help of the Department of Agriculture in draining the prairie potholes or making drainage ditches out of streams, or with the help of the U.S. Army Corps of Engineers in filling countless estuaries and marshes. Filling or draining for unneeded farmland, or for apartments or expressways or airports which could be built elsewhere, goes on apace. The Government Operations Conservation and Natural Resources Subcommittee has recently heard the sad tale of speculators despoiling the estuaries of the Potomac and of San Francisco Bay; these hearings will continue. The looters of our wetlands should be told: stop it.

2. AIR

a. Air pollution brings emphysema, bronchitis, lung cancer and death. It blackens our skies, smarts our eyes, wrecks our food, clothing and shelter. It is getting worse.

The internal combustion engine, with its carbon monoxide and nitrogen oxides, is the worst single polluter. A pollution-free engine must be developed and used in vehicular movement. We must evolve forms of mass transportation which do not pollute our atmosphere.

b. Industrial and power plants, with their sulfur oxides and hydrocarbons and particulate matter, are the second worst source of pollution. They must be guided quickly into using clean-burning fuels and methods of production which do not ruin our environment.

c. One of the newest forms of air pollution is noise—by jet planes, by motor vehicles on the freeways, by building construction crews. In many cities and suburbs, we have already exceded the noise levels where mental and physical health is endangered.

3. LAND

a. The earth and the fullness thereof get less full every year. Agricultural soil erosion by wind and water costs us $1 billion annually. In the next ten years, if we go on as we have, we shall lose another 15 percent of our agricultural land values to erosion.

b. To farm erosion has now been added the bulldozer of the suburban developer and the highway engineer, silting up our streams and ponds and lakes.

c. Chemical pollution of our soil (as of our air and waters and wildlife) is growing worse. Fertilizers, herbicides, pesticides, chemicals of war threaten not just the good life, but life on this earth altogether. DDT and other persistent pesticides have contaminated meat, fish, milk, vegetables, fruit. They threaten the destruction of whole families of birds. As the Conservation and Natural Resources Subcommittee found, negligence by the U.S. Army in its handling of lethal chemical weapons at Dugway, Utah, caused the death and injury of over 6,000 sheep, and with a shift of wind could have caused the death of even more human beings. Those companies and individuals which profit by chemical pollution do not give up easily. We intend to keep after them.

d. If people are going to find land on which to live and breathe and enjoy life, we must stop the senseless carving up of our landscape by the highway engineers, the suburban developer, the jetport authority. This requires regional and national planning. It requires the building of hundreds of new towns and consideration of the garden city concept with adequate open space adjacent to densely-populated areas.

e. We must expand our programs for setting aside parks, playgrounds, wilderness areas, wild rivers and seashores, and fish and wildlife areas. Yet this year's appropriation for the National Park Service is $123 million. We must alter our priorities.

f. Our land (as well as our water and air) are about to be engulfed by solid wastes and their by-products—junked automobiles, glass bottles, steel and aluminum cans, used packaging, and other detritus. We must reconsider our tax systems so as to put some of the cost of evolving new methods of solid waste disposal on the manufacturer and user of these wasteful products, so as to encourage the development of disposable and degradable containers and wastes.

g. Litter—trash and garbage and cigarette butts—are contributions to ugliness that almost all of us make almost every day. Here is something on which every individual should be taking the pledge.

4. *Wildlife.* Due to the skill of our game and fish scientists and managers, many of our fish and wildlife populations are in better shape today than they were 30 years ago. The American bison herd, for example, is up from 4,000 to 25,000. But the pollution of our land, our waters, our air, the destruction of wetlands, the increased use of chemicals, and above all, the inexorable grab at wildlife habitat by our increasing population, pose a clear and present danger. Already 89 birds and mammals are on the list of endangered species, and man himself may not be exempt. We must preserve more wildlife habitat, and particularly we must massively assist our marine resources.

5. *Mineral and forest resources* are being rapidly depleted by our industrial technology. We must conserve our non-renewable minerals; particularly, we must recycle the wasted iron, aluminum, copper, zinc and other metals with which we now fill our dumps. Our mineral leasing policy for public lands must be updated. Our forests are endangered as we increasingly exceed the allowable cut. It will cost more money to attain better management of our timber resources. We must provide it.

6. *People.* All of these environmental resources must be preserved not only for themselves, but for the life, liberty and happiness of our people. Environment *is* for people.

a. Population—how many people, and where they reside—can affect our environment equally with what we do, or fail to do, with it. Our studies of Florida's Everglades, for example, show that too many people living at the headwaters which moisten the Everglades, could dry up and ruin this priceless national ecological marvel. In our metro-areas, where most of us live, our slums, our traffic jams, our noise, our foul air and water, our sprawling suburbs, point an ominous warning. We urge that the President's new commission on population problems takes into account the effects of population on the environment as well as on other aspects of life.

b. If the environment is for people, it is also people—mostly private citizens, not just the government—who must lead the fight to preserve our environment. Surely, the government must reorder its structure for an all-out fight during the Environmental Decade: the federal executive branch must have a top-level Council on Environmental Quality, and the Committees of Congress with which we are associated must redouble their efforts. Federal, state and local legislatures and courts must erect the framework for the battle. But citizen activity must lead the fight.

c. Among citizens, we turn to youth as the great hope for the Environmental Decade. Young people are understandably outraged by the cynicism and materialism of their older generation. We urge them to substitute

constructive impulse for negativism, and to build for future generations an environment worthy of free men and women. We hope they will conduct studies, sponsor educational forums, initiate petitions, support court suits, pressure administrative agencies, draft legislation, and do the many things needed to help protect against environmental destruction.

d. We turn, too, to the people not just of the United States but of the world. Pollution of our environment threatens to engulf not only America, but all the land and seas and air. We welcome the Environmental Conference of the United Nations scheduled for 1972, and urge the United States government to take the lead in making ours a Model Planet.

Let the 1970's, then, be preoccupied with life and the quality of life. Before we starve, or choke on polluted air, or poison ourselves with our ruined waters, let us fight all who get in the way of a decent environment. Let man in the Environmental Decade assume his proper stewardship over pure water, blue skies, and a habitable earth.

H.R. 15091 GIVES HOUSE OPPORTUNITY TO VOTE AGAINST INFLATION AND FOR MORE HOUSING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 10 minutes.

Mr. PATMAN. Mr. Speaker, tomorrow the House will have a great opportunity to go on record against inflation, against high interest rates, and for more housing, and lower interest, and for small business.

Mr. Speaker, your Banking and Currency Committee last Friday morning reported out H.R. 15091, a bill to lower interest rates and fight inflation, to help housing, small business, and employment. This bill was reported on a 21-to-11 vote with two abstentions.

This bill should be passed by the House by an overwhelming vote. It has the solid support of the Democrats on the Banking and Currency Committee and the Rules Committee. I hope we will have support from both sides of the aisle so that the American people will know that this Congress wants more housing; so that the people will know that this Congress is dead serious in its fight against inflation.

Mr. Speaker, if this bill is passed, the Members of the House can go back to their home districts over the holidays and say, "We did something about inflation. We did something for homebuilding, for the prospective homebuyer. We did something to combat high interest rates."

In addition to the bill as reported, I plan to seek restoration of sections which would reqiure the Federal Reserve to purchase at least $6 billion in housing mortgages either in the open market or directly from the Federal housing agencies. This would provide an immediate and meaningful injection of credit where it is needed most—in the homebuilding industry. I hope that I will have the support of the majority of the House in the effort to restore these sections to the bill.

This provision was originally in H.R. 15091 as introduced by 20 of the Banking and Currency Committee's 21 Democrats. All we are asking is that a small part of the Nation's credit be allocated to build homes. All we are asking is that some of the credit be allocated to the Nation's most depressed segments of the economy.

Mr. Speaker, the purchase of $6 billion in housing paper is not inflationary in any sense. The Federal Reserve can tighten up on unnecessary business lending in order to compensate for the credit allocated to homebuilding. The Federal Reserve can stop the big banks from financing gambling casinos in the Bahamas and the financing of conglomerate acquisitions so that the American people may be housed in decent and healthful homes.

Mr. Speaker, the vote to provide $6 billion in housing credit will be a clear and absolute test of the House of Representatives' will to help the homebuilding industry.

Mr. Speaker, H.R. 15091 also provides other tools to help the housing industry and to prevent run-away inflation.

The bill would provide discretionary authority to the President of the United States to authorize the Federal Reserve to control extensions of credit, both business and consumer credit. This will enable, if the President desires, specific attacks on inflationary areas and thus make unnecessary the present across-the-board super-tight money which has created such havoc in the housing market.

This section of the bill would empower the Federal Reserve, on request of the President, to prescribe the maximum rates of interest, the maximum maturity, the minimum periodic payments, the downpayments, and other terms of credit transactions. The President would be empowered to call for these controls "for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume."

Mr. Speaker, the President of the United States—as well as the Vice President—has said much about inflation and the need to control it. Through this bill, the Congress of the United States is giving him an important tool by which he may place his words into action.

Mr. Speaker, the bill as reported also provides:

First. For Federal home loan banks to establish a secondary market operation for conventional mortgages.

Second. The imposition of reserve requirements and other controls over commercial paper and Eurodollar borrowing by commercial banks, thus calming down the inflationary boom in unnecessary bank lending.

Third. Liberalizing mortgage lending restrictions for national banks by increasing national loan limits from the now maximum 25-year maturity to 30 years and allow loans up to 90 percent of the appraised property value. Present law limits bank loans to 80 percent of value.

Fourth. For an increase in FDIC and FSLIC bank and savings and loan association insurance from the existing $15,000 to $25,000, thus encouraging deposits which can be used to make loans for housing and other necessary purposes.

Fifth. That the Small Business Administration shall be directed to make available $70 million to small business investment companies (SBIC's). Despite a congressional mandate to SBA to lend money to small business investment companies so that they may in turn invest in small businesses, the administration has refused to lend one penny, despite a $140 million revolving fund which they admit they could use by a stroke of the pen. The bill would cure this by requiring the SBA to release at least $70 million to the SBIC's.

Sixth. For the revision of insurance requirements for savings and loan institutions, freeing an additional $250 million from homebuilding.

Seventh. For the extension of the existing authority of the Federal Reserve Board and the Federal Home Loan Bank Board to establish flexible interest rates by banks and savings and loan associations on savings and time deposits. This authority expires on December 22.

Eighth. The bill also provides temporary Federal regulation of interest rates paid on savings in State-chartered thrift institutions in Massachusetts. The authority would be in existence until the State of Massachusetts adopts regulations of interest rates paid by these institutions.

DOCTOR SHORTAGE

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

Mr. DEVINE. Mr. Speaker, the Congress has program after program designed to provide funds to encourage more medical students, build more medical schools, and ultimately attract more qualified people into the medical profession.

Unfortunately, all of the public money, and good intentions are not solving the problem or the shortage.

A highly respected and able physician in my district, Robert C. Kirk, M.D., recently put his finger right on the heart of the problem—he is an eminent cardiologist. His letter should give some real second thoughts to those of us responsible for providing solutions to these serious problems, as well as those research-oriented people that deplete the ranks of the prospective general practitioners.

Dr. Kirk's letter follows:

COLUMBUS, OHIO,
December 1, 1969.

Representative SAM DEVINE,
House of Representatives,
Washington, D.C.

HONORABLE SIR: You are going to be bombarded by the most persuasive men in American Cardiology to keep up and increase the money spent on Cardiovascular Research, probably with the threat if you don't we will all die of heart disease. Personally, I prefer that to cancer or degenerative old age, but no matter. I am writing as a cardiologist associated part time with a University for 35 years. I am Chairman of the Heart Task Force Committee of the Ohio State Regional Medical Program. I am in active private practice, and I am a concerned and aware member of our citizenry.

I am convinced that the more money available to medical research, the more jobs will

be opened and taken by promising young physicians who see in this a chance to be another Harvey or Pasteur. I doubt if one out of one hundred will make an actual substantial contribution to new knowledge. I seriously doubt the wisdom of hiring anybody who will take a job in hopes that somehow he will be a Nobel Laureate. In the last twenty years the medical schools have increased their enrollment by 15,000 doctors over and beyond their previous graduates. It is no coincidence that in the same time there have been added to the faculty of these medical schools, 11,000 new full time men—so the net gain to the private practice has been peanuts.

The vast majority of that money for increased enrollment came from the U.S. government. So they didn't get what they paid for. The only way I see to increase the men and women going into private practice is to stop subsidizing every Health Program anybody can think up, and I include the National Institute of Health and the Regional Medical Programs, thus decreasing the choices available to our medical graduates. Nearly every one of them intends to practice, but by the time they get attached to the coat tails of full time research-oriented teachers, private practice gets downgraded or basic knowledge is questioned to the place where they don't dare go "out in practice."

Ask your own doctor if this sounds phony to him, and then vote as your judgment dictates.

Sincerely,

ROBERT C. KIRK, M.D.

NEEDED: PRESIDENTIAL COMMISSION TO INVESTIGATE MYLAI MASSACRE

(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, like most Americans, I have witnessed the unfolding story of the apparent massacre of women and children at Mylai, South Vietnam, with a growing sense of dismay and horror. The press reports on the incident have been voluminous, but there are many questions about the facts of the case and its implications which have not been answered satisfactorily, and probably will not be unless a high-level investigation by a panel of distinguished and respected Americans is undertaken. It is my feeling that such a high-level investigation is particularly required in this most sensitive and significant matter because none of the several bodies currently looking into it could be said to have the necessary perspective. Whatever group makes the inquiry should, for example, include persons not in sympathy with our military undertaking in Vietnam.

I have come to the conclusion that the investigation should be conducted under presidential authority, and I urge the President to appoint and convene a Presidential Commission to investigate fully the circumstances and implications of the alleged Mylai massacre and to report its findings to the Congress and the American people at the earliest possible time.

Monday's December 15 editorial in the Washington Post comes to the same conclusion. It reads as follows:

A PRESIDENTIAL COMMISSION ON MYLAI?

Mr. Nixon has not entirely foreclosed the possibility that he will appoint a special commission to investigate the killings at Mylai in March of 1968. At his press conference a week ago, the President said that the existence of a commission at this time might prejudice the rights of those men involved in current military court proceedings. But he added that he would consider the appointment of such a group should the judicial process "not prove to be adequate in bringing this incident completely before the public."

Meanwhile, various persons in and out of government have been urging that a commission be created. In a television interview last Sunday, for instance, Senator John Stennis suggested that the President authorize a "competent group" of individuals from "outside government, outside the military" to "determine what the facts actually are." Senator Stennis thought such a commission could provide "a more solemn and serious, deliberate development of the actual facts" than could a committee of Congress. A much broader inquiry seems to be envisaged by a group of lawyers and law professors in whose name Arthur Goldberg has called for the creation of a presidential commission on Mylai. It would investigate:

". . . the extent to which the war in Vietnam is being conducted in a manner consistent with the minimum humanitarian standards established by the international law of war and incorporated in the general and military laws of the United States . . . questions of policy guidelines for the conduct of military operations and the extent of our efforts to educate our troops with respect to the requirements of the laws of war . . . aspects of military-civilian governmental operations to determine whether there has been a lapse in the chain of communication and command."

Just as Senator Stennis emphasized the need for impartial commissioners, so Mr. Goldberg's group declared that any investigation would "only be credible if the body investigating is, and is seen to be, of unquestionable impartiality." Here one encounters the inescapable paradox of commissions and commission-making. Ostensibly apolitical bodies must be formed for the sake of achieving what is essentially a political end—namely, the neutralization of political conflict surrounding some issue or event, and the laying to rest of public suspicions that government is thinking or acting or speaking out on the basis of tainted, unreliable information. So commissioners tend to be chosen for their patent lack of special interest in the matter at hand, or they are chosen on the one-of-everything principle with a view to establishing a balance of special interests.

We have had better and worse luck with these commissions, and it is not unknown for a committee of Congress—amply stocked with men whose views would have been thought to disqualify them as reliable judges—to have produced the ideal commission-type result. Senator Richard Russell's investigation of the Douglas MacArthur affair some years back is an example, and when things work out this way, the findings of the committee have all the more authority precisely because of their source. In other words, the case for the appointment of a presidential commission on Mylai (or anything else) is not self-evident; it has to be made.

Events of the past few days have tended to overcome our own initial reservations concerning both the usefulness and the necessity of such a commission investigation at this time. Those reservations had to do with its possible interference with military court proceedings; the evident requirement that the court determine the facts of the matter—what happened—before others set about analyzing the implication of those facts; the preferability (if it were possible) of an in-government group conducting a thorough, fair-minded study of the events and meaning of Mylai which could be at once more powerful and more instructive (inside government and out) than the work of an independent commission.

However, Rep. Mendel Rivers, who is no Richard Russell, has in recent days utterly changed the picture and created conditions which seem to cry out for the designation of some presidential group that can preempt the Rivers sideshow and undertake a study in which Americans can have confidence. After several days of "closed" hearings of a 13-member Armed Services subcommittee marked mainly by inflammatory and conflicting reports by Rivers (and others) of what was or wasn't said, Rivers has now named a four-man subcommittee of members whose approach parallels his own to do the investigating. He has thus closed out the members with whom he is politically at odds. Even if all this is—as rumored—an attempt to bury the hearings, they still represent a potential threat. There is nothing in the record of events so far to suggest that what follows will have any more dignity or seriousness than the escapades we have already witnessed.

We think Mr. Nixon would be well advised, therefore, to move on this matter. Of the suggestions put forth so far in terms of the composition and mandate of a presidential commission, we tend to favor, first, a relatively narrow or limited focus for the study. A commission which can tell us what happened—at Mylai and in relation to standing orders and to the chain of civilian-military command and communication—will necessarily provide larger insights and implications about the war without bogging down in an unmanageable, overly vague mandate. Second, we think there is much merit to the suggestion of Joseph Kraft, in a column last week, that any such study be undertaken by—yes—"a commission of senior and retired Army men." Among them, as he observed, are to be found the people "most determined to undo the wrongs that are shadowing the honor and reputation of the United States Army." And again: "It takes such men to examine carefully the intricate problems of command and control. Equally it takes such men to persuade the Army—and its millions of supporters around the country—that some soldiers have indeed committed wrongs and told lies."

The timetable, powers, and access to information of such a group, along with the degree of openness of its proceedings, are among the many matters that would have to be carefully worked out—especially in relation to the activities of the military court. But none of these problems is beyond resolution, and we stand to gain much in the way of knowledge and public confidence in the government's knowledge from the work of such a commission.

U.S. POLICY IN THE MIDDLE EAST

(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 profoundly disturbed by what the Israel Government has described as "the erosion" of U.S. policy in the Middle East.

On November 11, 1969, I protested by telegram the Secretary of State's report that the United States was taking the position that Israel should eventually return to the 1967 borders in the Sinai. The speech last week by Secretary of

State Rogers has now sadly confirmed these press reports.

What troubles me most about the present administration's policy as outlined in the Secretary's speech is that, while still arguing for negotiations between the Arabs and the Israelis, we have undercut the Israel bargaining position by publicly expressing our views as to some of the issues to be discussed, especially the Sinai border. While it is true that Israel's bargaining power rests to a great extent on the fact that Israel in fact now holds the land, it would be extremely difficult for the Israelis to argue for more than the United States, their only big-power friend, says they are entitled to have.

And what was the purpose of stating the U.S. view on these frontier questions publicly if it was not to say to the Arabs, "this is what you will get if you go along with our plan"? Sure the purpose was not merely to try to persuade the Arabs of the good will of the United States. We cannot effectively do that, because we are unalterably opposed to the Arabs' basic objective, which is the destruction of Israel.

A second grave flaw in the Secretary's speech is that it does not spell out the kinds of guarantees the Israelis would be given if they were to withdraw to less defensible frontiers than they now occupy. A four-power "endorsement" of the settlement would not provide long-term security against new Arab aggressions. Nor would U.N. security forces. Nor would Arab assurances. My own view is, and has been for 20 years, that the United States should provide Israel with a formal commitment of support against aggression, so as once and for all to persuade the Arabs that their dream of destroying Israel can never be fulfilled. Without adequate guarantees of the security of new borders, one can scarcely expect the Israelis to be willing to lease their present defensible frontiers.

More fundamentally, I think the present U.S. policy, as disclosed in Secretary Rogers' speech, is built on false premises and is therefore basically misconceived.

Premise No. 1, as I see it, is that the Soviets want to achieve a permanent peace settlement in the Middle East and will genuinely work to that end. My own conviction is that, while the Soviets do not want to become embroiled in a war themselves and do not especially want to see a new Arab-Israel war break out, they also do not want real peace. The present situation would seem to suit them perfectly; it gives them an excellent opportunity to extend their influence in the area, because the Arabs have to turn to them for help.

Premise No. 2 is that it is possible—and desirable—for the United States to be "Mr. Fix-it" in the Middle East; that is, to bring about an agreement between the two sides by playing a role as honest broker or mediator, by following what Mr. Rogers calls a "balanced" policy. This might be a possible role if there were some other great power prepared to support Israel as the Soviet does the Arabs. But, clearly, there is not. So we are trying both to be Israel's friend and supporter and an ostensibly impartial mediator. The two roles, I submit, are incompatible. By trying to play both, we do neither well.

Clearly we cannot abandon the role of supporting Israel. It is the effort to be a mediator that we should abandon. If we were to do that, then we would see clearly that we must do at least as good a job of supporting Israel, both economically and with military equipment, as the Arabs' friends, notably the Soviet Union, are doing for the Arabs.

Now that the Arabs have so strenuously rejected our proffered peace plan, the present would be an opportune time for the United States to make this shift in the direction of realism. We can quite properly say to the Arabs, "We have done our best to work out a plan that we believe could lead to a reasonable peaceful settlement; the Israelis do not like parts of it, but they at least are willing to go along with the basic procedures we have outlined; you, the Arab States, have rejected the whole concept; therefore, we are withdrawing this proposal and will henceforth stand on the position that the only way for the Arab-Israel dispute to be settled is through direct negotiations between the parties to the dispute. We have no intention of allowing Israel to be driven into the sea, and we intend to give Israel the aid necessary for her to defend herself. This assistance to Israel is made necessary because of the assistance you have obtained and continue to obtain from the Soviet Union."

Mr. Speaker, I believe this would represent a clear and wholly defensible policy. In the short run, Arab propagandists would rant against it. But, in the longer run, it would, I believe, lead to peace in the area and therefore to a resumption of good relations with the Arab world—good relations which the present halfway policy has failed to preserve or restore. Such a clear policy would be bound to strengthen the hand of those in the Arab world, especially among the student generation, who want to turn away from the disastrous policy of military misadventures, and turn instead to the solution of ever more pressing problems on the homefront.

In his speech of December 9, Secretary Rogers referred to the problem of the Palestine refugees as one that had been "of special concern" to the United States for over 20 years, and said:

> We are prepared to contribute generously along with others to solve this problem.

I hope that this statement means that we will begin to approach this matter with a more imaginative—and, if necessary, tougher—policy than the one we have followed for two decades, that of contributing the lion's share of the funds required to carry out the altogether unsatisfactory UNRWA program. The Arab states have wanted the UNRWA refugee camps kept in being as centers of bitter resentment against Israel, and more recently Palestinian terrorists have actually taken control of some of these camps. The continuation of the UNRWA program, as we have known it, is no kindness to the refugees who have to live in the camps year after year, and now generation after generation. But the situation will not be rectified, and no solution will be found, until the United States makes clear that its contributions to the present program are going to be phased out.

Specifically, I propose that the United States should indicate that, as it phases out its support of the camp operation, it will be prepared to "contribute generously" to the resettlement of the refugees, either in Israel—to the extent that is possible and desirable—or in Arab countries, or possibly even elsewhere, as such a program might be worked out.

Finally, I believe the Secretary's remarks about Jerusalem are unrealistic. The Government of Israel has made its position on Jerusalem unmistakably clear. In my view, that position is fully justified and should be supported by the United States. The Government of Jordan made a terrible error in joining in the 1967 war on the side of Egypt, rejecting Israel's plea that Jordan stay out. In regard at least to Jerusalem, Jordan must accept the consequences of that error. So far as the holy places are concerned, the Government of Israel has already demonstrated that there will be freer access for all faiths to the holy places than there has ever been before.

THE SPECTER OF CONCENTRATION CAMPS

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, all of us are abhorred by the atrocities committed during World War II when millions of Jews were rounded up, put in concentration camps, and systematically murdered. The inhumanity of what happened in those camps is a lesson that we must never forget.

We are also appalled by the systematic detention in camps of tens of thousands of Americans of Japanese ancestry at the outset of the war. The fact that this was allowed to happen in America stands as a stark reminder of the danger posed by a philosophy which brands all members of a minority group as dangerous and not entitled to the liberty others enjoy.

There is no place in America for concentration camps, detention camps, or camps by any other designation where large numbers of our citizens can be taken at the whim of those in power. Our heritage of freedom is too precious to allow suppression by edict.

Yet there remains on our law books a statute which would allow the same type of detention as was carried out during those dark days of World War II. Under title II of the Internal Security Act, the Attorney General can detain any of our citizens merely on the suspicion—based on membership of a particular race or nationality, or on other equally specious grounds—that such persons may conspire to commit espionage or sabotage.

Along with other Members of Congress I am sponsoring legislation to repeal this law and remove this threat to our liberty. The President has also indicated he will now support repeal of the law.

Because of the growing interest in this cause, I am pleased to insert at this point in the RECORD an article from the December 5, 1969, Honolulu Star-Bulletin which delves into this subject. The article,

"Specter of the Concentration Camp," is by Mr. Isao Fujimoto. It tells of his own experience in a U.S. concentration camp, and follows:

SPECTER OF THE CONCENTRATION CAMP

(By Isao Fujimoto)

(Note.—Isao Fujimoto, a professor of social science at the University of California at Davis, Calif., is a sometimes bitter critic of U.S. society. One reason for his bitterness is a World War II experience with Japanese concentration camps in the U.S. which he relates in this article from the Black Politician.

(While most West Coast residents of Japanese ancestry suffered similar treatment only a few of Hawaii's AJAs were arrested.

(Hawaii members of Congress have been concerned that modern-day roundups could be justified legally under Title II of the McCarran Act. The Justice Department said this week it will support repeal of this law.)

"In Germany they came for the Communists and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists and I didn't speak up because I wasn't a trade unionist. They then came for the Catholics and I didn't speak up because I was a Protestant. Then they came for me—and by that time no one was left to speak up."—Pastor Martin Niemoller.

Every generation is held accountable for what it says or doesn't say, what it does and doesn't do on moral issues. The spectre of Eichmann prompts mankind to ask the Germans: "You were alive and free when Hitler began his genocide campaigns, so what did you do?" Subsequent generations can ask this generation, "What were you doing when the police dogs lunged at Negro school children in Birmingham? What were you doing when people were napalmed in Vietnam? What were you doing when you could have shared your daily bread with starving Biafrans in Africa and Navajos, blacks, Mexican-Americans, and poor whites in America in 1968?"

Many of us were alive and aware at a time in American history when democracy faced another moral test—the wartime concentration of more than 110,000 Americans whose sole crime was their Japanese parentage. But at that time few people bothered to even ask the basic questions or even notice that democracy was on trial and found lacking. It may be argued that viewed against a background of total war the numbers affected by the wartime relocation of the Japanese-Americans do not loom large. But what does loom large is the legacy that accompanies this generation and all generations which much evaluate the merits of democracy and consider the consequences when democracy fails to live up to its meaning during the time of crisis.

I was a statistic bearing witness to this misguided experience in American democracy. I was then eight years old—too young to know my rights but old enough to realize that something was wrong. As a product of an ethnic ghetto, I've internalized the subtle ways in which the larger society reminds one to stay in his place. Like many other Japanese-Americans, I've been infused with the philosophy, "Let's make the most of a bad situation and push ahead." This diverted me from critically appraising the past, which is directly relevant to many of the issues that all of us—not just minority Americans—face today.

The years I spent is a concentration camp have become a part of my identity. When I meet another Japanese-American I invariably ask, "What camp were you in?"

I am reminded of this bond when I try to relate the situation in the camps to those who did not share the experience. Many Americans on the West Coast knew of the evacuations, but I found Americans elsewhere in the country with little knowledge of what went on—and few who tried to help.

I know of one exception. A few years ago I met Dorothy Day, anarchist, Communist, humanitarian, and founder of the Catholic Worker. She told me she had protested the Japanese evacuations and picketed one of the centers—the Portland Livestock Pavillion. I had never before met anyone who had done this. I looked at her and felt a strange bond of comradeship. My family and I had been inside the Portland center. I cared little that our political views differed. What struck me was that here was a person who knew and cared about the issues involved; who backed me up with action, not rhetoric, when the chips were down; who was on my side when it counted most.

PEOPLE LOOKED PALE

My early years were spent on the Yakima Indian reservations in the State of Washington. I lived among Indians and immigrant farmers from Japan. I didn't realize this was a rural ghetto until I started going to school. Then I saw so many people who looked different, with round eyes and big noses—people who looked so pale. And I thought it was because they didn't eat enough rice.

But even our small, closed society was affected when World War II began. About a week after Pearl Harbor, two FBI agents arrived one night and took my father away. Our family did not see him for another year and a half. He was put in a detention camp in Missoula, Mont., which he described in letters to my mother. I remember those letters more for their form than their content. They had holes in them scissored out by censors.

Because everything seemed so uncertain, my mother went ahead, had the fields prepared and planted crops for the coming year. By spring, 1942, the rumor was that all people of Japanese descent would be taken away. The U.S. Army ordered the removal of all Japanese-American aliens living within 200 miles of the Pacific Ocean. Orders replaced the rumors and notices appeared for our evacuation. Our family was sent to the Portland, Ore., Assembly Center, one of 15 makeshift centers converted from West Coast racetracks.

LIVESTOCK STALLS

The Portland Assembly Center was like a giant honeycomb. Livestock stalls were converted into family quarters. I recall visiting friends who were sitting on suitcases outside of stalls still containing fresh hay and manure. Guard towers with armed soldiers and barbed wire surrounded us. Right after internment started, our Buddhist minister took pains to impress upon us the need to respect the laws inside the camps. We were warned that children had been shot for wandering too close to the barbed wire.

All told some 110,000 men, women, and children, 70,000 of them citizens of the United States, were uprooted from their homes into inland relocation centers. There was no recourse to courts; guilt was assumed. The charge was, "They look like the enemy."

Voluntary migration inland was permitted, but Lt. Gen. DeWitt, commander of the Western Defense Command, made no attempts to prepare the way for its implementation. Although some 9,000 sought to migrate, most were turned back by armed posses at state lines, refused gas and food, and in general, intimidated. Public Law 503 closed all movements and Executive Order 9066 authorized the evacuation.

Ten of 200 possible internment sites were finally picked. They met the criteria—safe distance from military zones, location in areas which could support a large scale work program, location on federal land which would not affect private land values. These camps were located in such far flung and remote places as Poston and Gila, Ariz.; Rohwer and Jerome, Ark.; Heart Mountain, Wyo.; Minidoka, Idaho; Amache, Colo.; Manzanar and Tule Lake, Calif.; and Topaz, Utah. The evacuation orders divided the West Coast into a military jigsaw puzzle.

They scattered the Japanese American population—first into different assembly centers then again into the 10 camps. Some, like our family, were moved three times.

Now identified by a number—37205—our family was relocated first to Heart Mountain, Wyo. A three-day trip over the Rockies in a special train heavily guarded by armed soldiers brought us to a dusty treeless plateau in northwestern Wyoming.

Heart Mountain held about 10,000 people distributed into 30 blocks each with 40 to 50 families. Each block had its community mess halls, boiler rooms, laundry, and toilets between the two rows of barracks, each holding from three to four families. Both space and possessions were very limited. For the first half-year in Heart Mountain, the school I attended consisted only of benches. The playing field was marked off by two coal piles which serviced boiler rooms at opposite ends of the block.

In the process of being uprooted, many Japanese-Americans had to leave belongings behind or get for them what little money they could. Speculators offered a few dollars for household belongings which took many a lifetime to accumulate. Unscrupulous operators took over land without paying rent and confiscated equipment or waited until harvest to collect the spoils. Encouraging rumors that the government would seize all property, speculators would then make ridiculously low bids. When the Japanese refused such offers, the speculators threatened to report them to the FBI. The public remained indifferent or gave in to this hysteria of the time. They used the very act of evacuation to justify it.

FIFTH AMENDMENT FLOUTED

They reasoned: "There's something wrong with these people or the Army wouldn't have taken them under wraps. That's all I need to know." As for the government, it offered none of the constitutional liberties which are the basis of its very existence and to which all of its citizens are entitled. The stipulations of the Fifth Amendment—that no person can be deprived of life, liberty or property without due process of law—were flouted.

(About the time my father was reunited with the family, the War Relocation Authority inaugurated a program of mass registration. It was for the purposes of processing the adults for resettlement and leave clearance. In essence, this was also a loyalty test. It is ironic in that they were asking for the loyalty of the very persons to whom they originally granted no constitutional guarantees.)

Question 27 of the War Relocation Authority Leave Clearance Form concerned willingness to serve in the Armed Forces of the United States. Question 28 asked: "Will you support unqualified allegiance or obedience to the Japanese Emperor or any other foreign government, power, or organization?" To those already confused, troubled and resentful, the ambiguity of this question added further difficulty. To the Isseis, first generation Japanese born in Japan, the question was unfair and impossible to answer in the affirmative. Even had he been a veteran of the Spanish-American War, an Issei could not become a citizen of the United States. In fact, it was not until the McCarran Act of 1950, that the right of naturalization was granted to immigrants from the Orient. The question thus called the Issei to remove the only nationality he had. If he answered yes, he became a man without a country. My father chose to answer no and the family was evacuated to Tule Lake, Calif.

Like the others, Tule Lake was a maximum security camp—but even more so, with its

double roll of barbed wire and cyclone fencing and armed guards in towers spaced every 100 yards. It was the largest of the camps holding 22,000 people.

Life at Tule Lake was tense, faction-ridden, and chaotic—to say nothing of the complications wrought by people—many of them driven to extreme positions and resentful of unjust acts by a government claiming to be just. The camp was once invaded by troops reinforced by tanks, machine guns, and tear gas bombs. Such was the situation between November 1943 and January 1944, a few months before my transfer there. Just four days after our family arrived an Army sentry killed a truck driver after ordering him from the truck following an argument over a pass.

Tule Lake became the official "segregation center." Of the 5,700 internees who protested the evacuation by filing applications to renounce their U.S. citizenship, the majority of them came from the Tule Lake center.

What characterized Tule Lake from all the other camps was that life was very much oriented towards Japan. Youths were organized into squads which got up at 5 o'clock, and took cold showers, ran and sang for two miles. Some blocks outlawed the use of English. Also, there were many homemade shortwave radios which were tuned into propaganda programs from Japan. In the morning in Japanese school, the day started with all of the children assembled in the school yard and bowing towards the East. In the afternoon, I went to American school which began with all of the children standing up to pledge allegiance to the flag of the United States.

NO CRIME, NO RIGHTS

One day on the way home from American school—which was voluntary, in contrast to Japanese school which was compulsory—I spotted some non-Orientals, with the letters "POW" on their shirts, cleaning out an irrigation ditch that ran through the camp. On the bank of the ditch was an armed American soldier who I presumed was the supervisor.

I later learned that they were Italian prisoners of war captured in North Africa.

But these prisoners lived outside the confines of the barbed wires that enclosed us. Not only were we no different from the POWs but we were even more confined. We were no longer temporary refugees—we were enemies—enemies of our own country against whom we had committed no crime nor even had the opportunity to exercise the rights which we undoubtedly no longer had.

In December 1945, four years after the FBI first took my father away, our family was released from camp. Just as a prisoner leaves jail with a suit and pocket money, our family was given $50 and a job assignment. But just as a prisoner carries with him a certain stigma, resettlement reintroduced to the public the very emotional outbursts that brought on the evacuation.

In fact, the War Relocation Authority sent out teams of anthropologists to evaluate various towns as to their degree of hostility or tolerance towards the resettlement of Japanese Americans. Some of the superpatriots had publicly hoped the Nisei landowners would be killed in combat. Then they could easily lay claim to land they had been farming free all during the war. In the guise of Americanism many organizations still existing today took hypocritical stands.

When today we compare the overground with the underground sources regarding concentration camps, we find a relative vacuum in the world most of us are tuned into, the world pictured for us by the national and establishment press, television and radio.

But if we tune in to the world reported by the underground, ethnic ghetto, and hip media circulating among the minorities and invisibles—be they nonwhite, the youth, the disaffected—we get a different picture. It consistently objects to such things as the House Committee on Un-American Activities, the 1967 up-dating of the McCarran Act, the efforts of Sen. James Eastland and 19 other senators to introduce the 1968 Internal Security Act, and recommendations for additional powers for the Subversive Control Board.

ACT STILL IN FORCE

Title II of the 1950 McCarran Internal Security Act authorizes the attorney general to issue a warrant "For the apprehension of each person as to whom there is reasonable ground to believe that such persons probably will engage in or probably will conspire with others to engage in acts of espionage and sabotage." This kind of evidence can be turned in by a neighbor who dislikes you. Since the government is under no final obligation to produce a source of evidence, the burden of evidence rests on the suspected person.

To check the validity of stories about camps established under the McCarran Act, I wrote several congressmen, senators, and representatives of the Justice Department. The replies all dismissed rumors about the camps, assured me that no appropriations were allocated for the maintenance of such facilities, and that adequate precautions would be exercised before such provisions were implemented. Six detention facilities including Tule Lake were reconstituted under the Act. However, all letters I received say they were maintained only through 1957 and none exist today even on a standby basis.

However, the precedent of the Japanese experience makes all these arguments irrelevant. The wartime experience showed that the lack of camps is no deterrent to mass detention. That experience has taught us that any place that holds horses and cows can hold people.

Furthermore, all it took to bring about evacuation was an executive order. The fact that a law exists today legitimizes what many insist couldn't happen again. And the fact that the act is on the books is significant in terms of the stress Americans place on law and order.

Americans pride themselves on being law abiding citizens, but when laws such as Title II of the McCarran Act remain on the books they cannot be dismissed as some anachronism out of the McCarthy period.

Added to this dilemma is that the constitutionality of the wartime evacuation was upheld by the Supreme Court; Title II of the McCarran Act has yet to be tested. We are living in a predicament. If the law were enacted, it would be our awkward duty as citizens to abide by the law. The choice is to obey a bad law for the sake of law and order or to disobey a bad law out of concern for law and justice.

The Japanese were interned because they looked like the enemy. The threat of China entering the Vietnam War has sent rumors through Chinatowns about detention. "It happened before—will we be next" is a question not easily shrugged off as rumor. In the nonwhite ethnic ghettos, which have witnessed repression, more than rhetorical assurance will be needed to offset anxiety.

The Japanese-American experience has revelance today. The focus still is on the victim, which takes away from the major issue: Why does a free society have to have camps at all? Why do people in a free society not only obey but support repressive laws?

The victim approach misleads us from seeing the issues. It would have us attempt to understand anti-semitism by studying Jews, to seek solutions to the ghetto problems by studying the blacks, to resolve the farm labor dilemma by understanding the migrant worker.

This approach also assumes that it is the victim that needs correction and that programs be constructed that will help him adjust to society. It does not question that society itself is at fault. This insistence that society is right widens the gap between rhetoric and reality—resulting in a society of paradoxes.

TOO SELDOM BY DECENCY

We have a society wherein the rich enjoy the fruits of socialism and the poor get tossed the rhetoric of free enterprise. We have a society wherein law and order get more attention than law and justice. We have a society where, in order to "make it," you already have to "have it made"—it isn't what you know but who you know." We have a situation where education, rather than being considered a process of opening up a person to new possibilities, is seen as a system to beat, while one collects credits and units as he collects Blue Chip Stamps. We have a system whereby our commitments are limited, where we approach our challenges with our eyes downward and our palms upward.

The current mood of our society sees government as good when it protects property but bad when it tries to help people—a far cry from what Lincoln said about government doing for people what the people couldn't do for themselves. We have a democracy by deal, sometimes by dole, but too seldom by decency.

Gestures of coffee and doughnuts for repressed Japanese-Americans during the war were too little and too late—the feeble gestures of a people rendered helpless by the very system which was supposed to respond to their demands. There were too few demands for justice, too few voices of protest.

BODIES ON THE LINE

What was needed were people to put their bodies on the line—on the railroad lines—to keep the trains from moving to the camps. What was needed were leaders such as the King of Denmark who had all Danes wear the Star of David when Nazis came to round up the Jews.

The Japanese-American experience warns us of the price we pay when we abstain from our moral duty to work against forces of repression in our daily lives. This means taking action against acts of injustice—be it discrimination in our local country club; entrepreneurs who violate health laws; arbitrary stands by local school boards on issues of public appearance; or subtle racism.

Subtle racism is telling blacks and Mexican-Americans to emulate the Oriental-Americans as minorities "who have made it." The subtlety of this logic says, "Be like them—they know their place, they don't complain." This pits minorities against each other, while absolving the larger society from looking at itself. In reaction to this there has emerged Yellow Power groups, which are not a front pushing bananas for the United Fruit Co.

The Japanese American experience warns us to discard the idea that "it won't happen again and even if it does, it won't happen to me." It is not just nonwhite Americans or citizens of the underground that are concerned about concentration camps. The very fact that the government—by pressure from a few—is free to make its own arbitrary definition of subversives, makes this a matter of concern for all Americans.

We shouldn't fool ourselves into attacking the narrator because we didn't like the narration. If a fellow American—be he black, brown, yellow, or red—has endured unjust experiences by basic denials of due process, we should listen to that experience and put it in its proper context. We should not dismiss him as being bitter, biased, or disenchanted. It is not enough to expiate your guilt by using him as a token guest, or insisting that all has been done to demonstrate fairness.

The sobering lessons of the Japanese-American relocation also force us to ask, "Can civil liberties, rights of individuals, and of the minority, be tolerated, let alone protected, in a time of crisis?"

We still too often operate on the assumption that we can tell who the enemy is by looking at him. If anything, the wartime evacuation has set the dangerous precedent of overemphasizing racial and national strains in our population and using this as a criteria for discrimination.

Democracy is in theory nothing more than the determination to live peacefully and, in practice, nothing more than a continued experiment for doing so. The spirit of democracy involves integration of private convictions and public tolerance and the recognition of the will to live one's own life consistent with good will to others.

This was totally disregarded in the internment of the Japanese-Americans. It would be well to ask how much disregard for the rights of others applies today—whether the minority is the Black Panthers, the Latins for Justice, boys with long hair, girls with short skirts, or soldiers who do not want to kill.

What is at issue is the vast gap between rhetoric and action, between what is promised and what is realized, what we say can't happen and what did happen. We are in a time of crisis where neither democracy, nor we, can afford to fail.

PRIZE-WINNING ESSAYS

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, in the midst of our deliberations it is always encouraging to remind ourselves of the great values of the American system which we are constantly trying to perfect.

Such an occasion took place during Citizenship Week in Hawaii when students participated in an essay contest on the subject of "Citizenship and the Constitution." The results were indeed heartening. They showed among our young people a very praiseworthy appreciation of their national heritage.

Most eloquent were the essays by Aaron Ebata, Jean Ocheltree, and Ann Hamamoto. I insert at this point in the RECORD and commend to the attention of my colleagues their prize-winning essays:

CITIZENSHIP AND THE CONSTITUTION

(EDITOR'S NOTE.—Three winners of the essay contest entitled, Citizenship and The Constitution, were honored today by Mayor Shunichi Kimura at an awards ceremony in his office. The contest was conducted during Citizenship Week in October. Texts of the winning essays are published below.)

FIRST-PLACE WINNER

(By Aaron Ebata, Ninth Grade, Paauilo School)

We, as citizens of the United States of America, are fortunate that the Constitution provides certain privileges and duties unknown in some other countries.

There are many things that come with citizenship. People becoming citizens must take an oath that they will be loyal to the United States. Good citizens obey the laws that are given to them, they are loyal and responsible, and they do their duties and use their privileges wisely.

Our duties as citizens are many and difficult. It is our duty to love, honor, obey, preserve, protect, and defend the country we live in and our Constitution. One of our most important duties is to report crimes and to serve as jurors. Another is voting—choosing the leaders of our country, state, and county.

In return, our Constitution provides us with such rights as the freedom of speech which allows people to speak up on what they think. Freedom of religion allows us to attend the church of our choice. Citizens have a right to assemble and to petition the government for a redress of grievances. The right to bear arms is also important. Citizens have the right to privacy, to be secure in their homes, selves, papers, and other belongings against unreasonable and unlawful search or seizure, except if served by a warrant. Citizens accused of crimes have the right to a speedy and public fair trial by jury, and the right to remain silent until confronted by a lawyer, and to be free from excessive bails, fines or cruel and unjust punishment. Citizens are also able to hold public and government offices if they are qualified.

All in all, the Constitution protects a citizen's rights to "life, liberty, and the pursuit of happiness."

Citizenship in the United States demands a lot from a person. We must take care of the country, to make right laws and rules of conduct. In turn our country takes care of us by giving us the best place in the world to live, under democracy and free of fear of the government.

Citizenship should be held proudly, and I am proud to say that I am a citizen of the United States.

SECOND-PLACE WINNER

(By Jean Ocheltree, Ninth Grade, Konawaena School)

A long time ago James Bryce said, "No government demands so much from the citizens as democracy, and none gives so much back." We are taxed very heavily; our men go to war to fight and die by the thousands; we are required to participate in civil affairs; we must obey the laws or face the consequences. These and many others are our duties and privileges as citizens of the United States of America, a democratic country.

Although we are taxed heavily, many benefits are realized from this tax money. Our public roads and buildings are built with funds from this source. Health, education, and welfare programs are provided. It provides support for the defense of freedom around the world. With these funds it was possible for the United States to win the race to the moon. All government services provided are paid for with our tax money.

We are allowed participation and representation in congressional matters through the power of the vote. We must vote for what we believe in and make known to our legislative representatives what we feel best for our country. In this way our country's leaders will know what we as a nation of individuals want.

Jury duty is a privilege and responsibility. It is maintained to protect the innocent as well as to convict the guilty.

These things play only a minor part in the role of a citizen of a democratic nation such as the United States of America. They are privileges that have been provided by our forefathers who showed much wisdom in setting up the Constitution. If we do not take advantage of the opportunity to participate in civil affairs, those rights and privileges will be lost, just as an unused muscle atrophies. Only as we maintain these rights and privileges with honesty and integrity will we be able to retain them.

THIRD-PLACE WINNER

(By Ann Hamamoto, 10th Grade, Hilo High School)

I am an American citizen, and I am very proud to be one. For being an American citizen means many things; among the most important of which is having a democratic government. A democratic government can be defined as a government that is ruled by the people and not only by one man, or a set of men. Of course, it is not possible for each and every citizen to gain control of part of the government and expect to come out with a satisfactory one, to say the least, because there wouldn't be any limitations to what each has in his power. And that it the reason why the voters of our country elect a group of people who they think will represent them well in the various stages of the government. And for these elected "representatives", there must be some rules by which they must abide. That is the reason why the Constitution was written.

The Constitution is the supreme law of the land. It defends each American citizen's individual rights, liberties, and privileges. It also estabilishes the terms in office, the qualifications needed, the powers of the different branches, and various other important "rules" for the elected and the citizens which must be respected and abided. As the 1969 edition of the World Book Encyclopedia states, "It (the constitution) is the shield of democracy under which Americans govern themselves as a free people."

I am a free person, and I am grateful for it. So to you, the United States of America and the Constitution of the United States, I say thank you; thank you very much for everything you have done for the benefit of our great country!

(NOTE.—Aaron, 14, is the son of Mr. and Mrs. Kenneth Ebata of Paauilo; Jean, 14, is the daughter of Mr. and Mrs. Robert Ocheltree of Kealakekua, and Ann, also 14, is the daughter of Mr. and Mrs. Takumi Hamamoto of Hilo.)

STATUS OF CONGRESSIONAL REORGANIZATION

(Mr. SISK asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SISK. Mr. Speaker, I am sure many of the Members are anxious to know the status of the congressional reorganization, and I would like to take this opportunity to let them know.

We had hoped that our subcommittee would be prepared to report a bill almost immediately upon the opening of the second session in January, and with that in mind, we scheduled hearings so Members could have an opportunity to make their views known.

We concluded those hearings on December 5 and began our deliberations in executive session on Wednesday, December 10. Unfortunately, there are two factors that make it impossible for the subcommittee to finish its assignment prior to adjournment of the first session. These two factors are the extremely heavy legislative load of the House during the month of December, plus the desire of the subcommittee to give full attention to recommendations made by Members in testimony before the subcommittee. Many Members have offered excellent suggestions which we want to give our fullest consideration.

Accordingly, our subcommittee is in recess until the convening of the second session. This means that the time we had hoped the staff would be able to utilize during the recess in drafting a bill and a report will go by the boards and that we will not be able to meet our goal of reporting a bill in January.

Although we have no additional hearings scheduled, the record will remain open at least until the subcommittee reconvenes, and we will, of course, welcome any further statements.

LEST WE FORGET

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

Mr. RANDALL. Mr. Speaker, I have just received a copy of the fall 1969 issue of the Jackson County Historical Society Journal through the courtesy of one of its members, George M. Hare.

In that edition there is an article which reports the annual reunion on Saturday evening, September 20, 1969, of Battery C and Battery E of the 129th Field Artillery, 35th Division of World War I.

The article is entitled "Preservation of World War I Memorabilia," and is written by Mary Salisbury Hare, wife of the Independence lawyer, George M. Hare, and the daughter of the late Capt. Spencer Salisbury, a member of Battery E.

Mr. Speaker, I take this occasion to preserve this article by asking consent to enter it into the CONGRESSIONAL RECORD because it contains some names that sound like the "Who's Who" of Independence, Mo., including a former President of the United States. Accompanying the article is a picture showing the commissioned officers of the 129th Field Artillery of the 35th Division taken at regimental headquarters at Courcemont in March 1919.

The picture contains such distinguished men as Maj. John L. Miles, who for many years was the chief law enforcement officer of Metropolitan Jackson County, Mo.; Capt. Spencer Salisbury, successful businessman; Capt. Roger T. Sermon, mayor of the city of Independence for over 20 years; 1st Lt. Edgar Hinde, postmaster of Independence, Mo., for many years; and last, Capt. Harry S. Truman who became the 33d President of the United States.

Today when there is so much discussion on the subject of patriotism with the suggestion there may be an erosion or deterioration of that fine quality among some of our younger citizens in the wake of the November moratorium, I think it would be reassuring to have the benefit of the content of a letter authored by a comrade in arms of our distinguished first citizen, former President Truman. The letter is from Sgt. Vincent Bowles, uncle of Dr. Victor Drumm Bowles, a distinguished orthodontist, written on October 21, 1918, from a dugout in France where he was fatally struck by shrapnel on November 2, 1918, 9 days before Armistice Day.

Sergeant Bowles wrote to the late Dr. H. M. McConnell in the heroic spirit of a young man in the midst of a battle with the Germans. Just prior to his death, he wrote he was proud to be an American and proud to be a member of the great 35th Division. He recognized that war was what Sherman called it but he knew that those who died were giving their lives that their country might live. In his closing paragraph, he pointed out that should he be called upon to make the sacrifice he wanted his friends to know he had made that supreme sacrifice with a smile.

I wish to pay my high commendation to the author, Mrs. Hare, for the excellent article which was written for the Jackson County Historical Journal. Reference to the guidon of Battery E and how it has been preserved by her father, Captain Salisbury, was most interesting. The portion which traces the background of a guidon back through French history is most informative.

Mr. Speaker, because of the distinguished men mentioned in this article and because of the spirit of the letter written by an unsung hero who made the supreme sacrifice in World War I, I regard it a privilege to perpetuate this historical article by making it a part of the CONGRESSIONAL RECORD. The article follows:

PRESERVATION OF WORLD WAR I MEMORABILIA

(By Mary Salisbury Hare)

As fresh American blood again hallows alien soil, it is relevant to consider an earlier doughboy and another war.

Saturday night, September 27, 1969, the 49th annual reunion of 37 veterans from Battery E and Battery C of the 129th Field Artillery, 35th Division, recalls that men of heroic stature have not been found lacking in historic Independence. Archives of the Jackson County Historical Society bear testimony to this.

Two unsung heroes, who made the supreme sacrifice, reappear in a yellowed clipping retrieved from the worn leaves of a World War I diary. This journal was kept and treasured by the late Captain Spencer Salisbury, commanding officer of Battery E, 129th Field Artillery, whose membership sounds like "Who's Who" of Independence. Cut from an Independence Examiner, dated July 16, 1921, the clipping reads as follows:

"LAST HONORS FOR BOWLES

"The largest crowd at a funeral in Independence in years turned out yesterday afternoon to the services for Sergeant Vincent M. Bowles. People filled the yard at the Bower Undertaking Home and the sidewalk for a block between 2:30 and 3 o'clock waiting for the body to be carried from the house and placed on the gun carriage that was to bear it to the cemetery.

"A long parade of motor cars turned in behind the Masons and ex-service men who had the funeral services and the ceremony in charge and went to the cemetery.

"The body was borne to the cemetery on an improvised resting place above the gun carriage of a cannon obtained from the Horn Zoological company. The usual three teams of horses drew the field piece. They were driven by George Smith, 'Sunny' Sullivan and Mr. Duncan.

"Following the cannon a horse covered with a black shroud was led saddled and bridled and ready to mount indicating the place in which Sergeant Bowles rode during his time in service.

"Kitt Sapp was grand marshal. Wallace Cameron, section chief, William Cleveland carried the guidon, Maynard Sands and Ora Meyers were color guards, Herbert McClure and Ward Johnson were color bearers while Max Prussing was in charge of an escort of 14 men wearing helmets.

"The pallbearers were Herbert Van Smith, Harry Sturges, Max Kaplan, Rolly Johnson, William E. Ragan and Powell Cook. A firing squad was furnished by the National Guard of Kansas City.

"Bert Hafer said the Masonic ceremony at the grave.

"Most of the men who took part in the ceremony were comrades of Bowles and some of them were within a few yards of him and saw him fall when he was fatally struck by shrapnel November 2, 1918.

"The American Legion spared no effort or expense in securing the necessary men and equipment for the funeral. The harness for the horses was shipped here from St. Louis. One bit of equipment that might be in Independence for such an occasion is the piece of artillery. The cannon, secured from the zoo, is said to be part of the equipment of the once famous Buffalo Bill Wild West Show.

"Sergeant Bowles died November 2, just nine days before the signing of the armistice. Three days later his friend, Dr. H. M. McConnell, received a letter which Sergeant Bowles had written on October 21.

"It was written during some of the heaviest fighting of the war, and was dated 'In a dugout in France, with the rats and cooties.' "

But the heroic spirit of the young sergeant rose above its sordid surroundings as he wrote the letter. In a recent battle the Germans had begun shelling the American positions at 5:30 a.m. before daylight.

"The exploding shell shot Sergeant Bowles' blankets and tore in two the blouse he had been using as a pillow. It turned out to be one of the hardest battles of the war.

" 'Quite a number of the boys from good old Missouri and Kansas never will see the Statue of Liberty again,' Sergeant Bowles wrote. 'A couple of the boys from Independence fell that day. Their names never will be forgotten and it will go down in history how one lone American division met and defeated four of Germany's best. I never will forget the sights I saw on the field that day. I am proud to be a member of that division, just as one the cogs of a great machine.

" 'I am glad that I am an American, and glad I live in a day when the country needs her best men. War and its hardships are what Sherman called it and then some, but we are all doing it with a smile. We are doing it for our mothers, sisters, friends, and the coming generations, and it is worth any hardships we may go through for them.

" 'I can sit here in my dugout and hear the fighting all around me and know that some one is dying every minute, giving his life that his country may live. And she will live, because we are driving the enemy back from the North Sea to the Swiss border.

" 'Well, old friend, if anything should happen, and I am called on to make the sacrifice, you can tell them that I made it with a smile.' "

One of Battery E's proudest possessions is its original guidon mentioned in the above article, which has been presented to the Truman Library for display with its 35th Division exhibit. It was taken to Europe, saw service and was returned unblemished. Its staff is still retained by Sergeant William Cleveland.

Such stalwarts as Herbert C. McClure, who was awarded the Distinguished Service Cross by the War Department, Ed S. Carroll, current president of Battery E Association or the late Dexter Perry, the "Veteran's friend," would escort their guidon from the Hare home stairwell to Battery E commemorative occasions and afterwards return it to its place of honor. Not without foresight did Captain Spencer Salisbury preserve it.

On his death in 1968 the guidon's safekeeping was assumed by Kenneth V. Bostian, who commanded Battery E at one time. The Battery E Association is in search of a permanent home for the diminishing array of company memorabilia, data and trophies. Some of these relics have been lodged temporarily in the present Independence Memorial building. Others are still in the possession of surviving individual members or their families.

The etymological background of guidon is French. Its lineal descent can be traced back to Middle French ancestry derived from Old Provencal, the language spoken in southern France. Provencal was the Romance tongue of the troubadours, who were the poets of the 1100's.

Funk and Wagnall's New Standard Dictionary of the English Language cites a passage from the Preface of Elizabeth B. Custer's "Following the Guidon" as an appropriate poetic conception:

"The guidon told the soldiers in color what the . . . bugle said in sound. . . ."

PREDICTION COMES TRUE

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

Mr. RANDALL. Mr. Speaker, last year the House for 5 full days worked to pass a bill to control ownership of shotguns and rifles which, when finished, served to hamper law-abiding citizens in their purchases of ammunition for these guns and other weapons they own for their self-protection or for sporting purposes. This was accomplished in an emotional atmosphere bordering on hysteria.

As I announced last year, this law was a mistake. Those who supported it claimed they were striking a blow at crime. However, having done so, no further action was taken on crime control. New FBI statistics reveal that the incidence of nearly all crime continues to increase alarmingly. The tragedy of it all was and is that while the Congress thought it was doing something, actually it did absolutely nothing at all, except to inhibit law-abiding citizens in their efforts to protect themselves and hamper sportsmen in their hobbies.

In July 1968, the RECORD will show that I said passage of the gun bill would be a big lift for the do-it-yourself hobbyists. The 1968 gun law applied to guns but not to components of guns. Those with the inclination to do so and the dexterity for a few simple hand tools can still procure the parts and build their own guns.

Now the weaknesses of the gun laws of 1968 are becoming additionally apparent. It seems that importers, who were seriously limited in securing guns from foreign sources, have found out that the laws do not apply to gun components. So, now they import the parts, assemble them and put them on the market to the extent that their movement in interstate commerce has taken from their business much of the slack imposed by the 1968 laws.

The Washington Star of December 16 has a story entitled "Cheap Handguns Slipping Through Loophole in U.S. Law," which points up the importing aspect of the do-it-yourself activity in assembling gun components. Under permission granted for extension of my remarks, that article is included in the RECORD.

The law which should have been enacted and which would have gone to the heart of the problem, was the provision to impose mandatory prison sentences with no suspension and no probation for criminal offenses involving firearms. That was never passed into law. Meanwhile, criminals will continue to steal their guns and wreak their violence on a citizenry whose capacity for arming for their own protection has been crippled by unwise enactment by the 90th Congress.

The item referred to follows:

CXV——2485—Part 29

CHEAP HANDGUNS SLIPPING THROUGH LOOPHOLE IN U.S. LAW

(By Frank Murray)

The federal gun control law has missed one of its main targets—curbing the traffic in cheap handguns—because of a loophole unrecognized by Congress but exploited by importers-turned-manufacturers.

When the law went into effect one year ago today, importers quit bringing in the small caliber, $10 to $20 pistols and revolvers which police call "Saturday night specials."

Instead some firms began importing most of the parts needed to manufacture the guns. Then they assembled the guns in domestic plants. Other firms stepped up production of cheap handguns from parts made exclusively in the United States.

The net result: About the same number of cheap handguns are going onto the market today as before the law's enactment.

"It didn't occur to me" until recently that the law contained the loophole, said Sen. Thomas J. Dodd, the legislation's chief sponsor, in an interview.

"I didn't know the importers were that greedy," the Connecticut Democrat said. "We shut off the importation of this dreadful type of gun only to wake up and find out Americans are doing this. It's outrageous."

As the law's first anniversary neared, Dodd introduced a one-sentence bill that would amend the act and ban the sale or delivery in the United States of any snub-nosed gun or small automatic pistol, as well as the "junk guns" which the National Commission on Violence says are used in 50 percent of all crimes involving guns.

PANEL'S RECOMMENDATIONS

"The United States still does not have an effective national firearms policy," the commission said last week. Among its recommendations: Extension of the 1968 act to ban domestic production and sale of "junk guns."

Except for the continued problem with cheap handguns, officials say other sections of the law—such as the ban on mail orders and interstate shipments—appear to be working.

In California, for example, the sale of guns in the year ending June 30 dropped off to 146,468 from the 202,920 reported sold the previous 12 months.

The Internal Revenue Service, which polices the federal act, recommended 896 prosecutions from July through October, compared with 197 cases for the same period in 1968. Most of the violations are for failing to disclose criminal records or for using fictitious names when purchasing a gun.

DIFFICULT TO EVALUATE

But IRS Commissioner Randolph W. Thrower told a Senate subcommittee it is difficult to evaluate statistically whether the law is preventing felons, juveniles, the mentally ill or drug users from buying firearms. "We cannot tell you how many . . .," he said.

Latest FBI statistics say that guns were used to commit 65 percent of all murders and 23 percent of all aggravated assaults from January through September—precisely the same percentages as in the similar period last year.

Before the law was passed, almost all cheap handguns came from abroad. In 1967, according to government figures, 747,013 handguns of all types—cheap and expensive—were imported. In 1968, the total for all handgun imports jumped to 1,155,368. This included 317,703 handguns with an average value of $13 ordered in a two-week period of Senate hearings following the assassination of Sen. Robert F. Kennedy.

380,000 MADE IN UNITED STATES

This year, imports of handguns—all of them the more expensive type—are down to 325,373.

But the Treasury Department said companies tooled up and made 380,000 of the cheap pistols and revolvers entirely with U.S.-produced parts. In addition, parts for 408,000 weapons were imported for assembly here.

Therein lies the main loophole: A gun is not a gun until the parts are assembled. Except for the frame, all the parts can be imported. Even two-inch barrels can be imported by the thousands, although a single assembled gun with a two-inch barrel can not.

Dodd's bill would change that, applying the government's import standards to all guns sold or delivered in the United States regardless of where they are made. Small automatics and snub-nosed pistols would be banned, as would larger weapons that are unsafe, too light or so shabby they lack the accuracy for sport purposes.

The Senator said he hoped to get the bill through by early 1970, predicting, "the gun lobby will buck it."

An example of the opposition was voiced by William Ethier, general manager of Firearms Import & Export Corp., Miami, one of the major gun importers. Ethier said his firm's imports are down by half since last year, and claimed the legislative moves are discriminatory.

"I think a lot of Sen. Dodd's support comes from the gun manufacturers of Connecticut," Ethier said, "If American manufacturers can restrict the import of equal quality weapons because they are made in a country with cheaper labor, they've done themselves a service by taking a large segment of their competition out of business.

"It's just as dangerous to be shot by a gun with a two-inch barrel made in Germany as it is to get shot with a gun with a two-inch barrel made in Hartford," he added.

Dodd responded, "Discrimination is an empty word when you're talking about stopping murder and assaults. It took several tragedies to get the Gun Control Act of 1968. We may have to have more crimes to get rid of this dreadful weapon. I hope not."

Four of America's major gun manufacturers—Colt, Winchester, Remington and High-Standard are based in Dodd's home state of Connecticut.

A Treasury Department spokesman said Dodd's amendment would apply to some weapons now manufactured in the United States by such companies as Colt, which already has halted imports of a tiny semi-automatic pistol.

When the 1968 act went into effect, the large domestic companies merely dropped prohibited items from their line instead of importing parts and shifting assembly to their home plants.

C–5A AIRCRAFT

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

Mr. DAVIS of Georgia. Mr. Speaker, I want to devote a few moments to answering some charges that a Member of this body leveled at the C–5A aircraft—the first of which will be delivered to the Air Force tomorrow at Altus Air Force Base, Okla.

I will not attempt to answer all of the gentleman's charges point by point. First because most of them can be lumped together under the heading of misunderstanding; second, a few of them are too trivial for serious consideration, and, third, some are plain inaccuracies that require no defense.

To approach these categories in reverse order, I cite the complaint about a

defect in the pitch trim flap system. I want this body and the Committee on Armed Services to be assured that there is no defect in the pitch trim flap system—there is not even a pitch trim flap system.

But, to dwell for a moment on the trivial, I see notations to the effect that there are mistakes in the operating manual of the C–5. If an operating manual that has been superseded by later knowledge is a defect, then I fear for the operating procedures of the Air Force. I say this is because the operating manual for every aircraft is updated constantly by safety-of-flight supplements. This applies to aircraft with a long and distinguished record of operation, and to those in the production and testing stage. I doubt, for example, that any Air Force cargo plane has a more illustrious record of reliable performance than the C–47—known to servicemen as the Gooney Bird and to civilians as the DC–3. The first C–47 was accepted by the Air Force in 1938, and yet a mistake in its operating manual was corrected by a safety-of-flight supplement as late as December 4, 1969.

The C–141, which I think anyone would agree is a troop-carrying aircraft, has had 117 safety-of-flight supplements issued for it, and this aircraft was also produced by Lockheed through the same concurrent testing and production methods being used now to produce the C–5. I suspect that the same criticisms now being leveled at the C–5 would have been leveled at the C–141 during its early stages of production had it been as fashionable to criticize the military-industrial complex as it is today. And yet the record of the C–141, as well as that of many other aircraft, bears testimony to the effectiveness of testing an aircraft while it is being manufactured.

This brings us to the heart of the charges against the aircraft; the method of its production, which is to manufacture it as it is being tested. I can say that this method has the approval of the Air Force and of the committees in both Houses of Congress most directly involved in this project.

Let me return for a moment to the C–47. Despite 30 years of reliable, distinguished services, the C–47 has had—and still has—a restriction which says that the aircraft is not to be operated at an engine speed of 1,300 to 1,700 revolutions per minute.

It has been said that there is a similar restriction on the C–5. In fact, it is the kind of operational restriction placed on many aircraft in addition to the C–5 and is one which sometimes stays with them until they are retired from useful service.

Actually, this is the point to all restrictions. Every airplane has its limits of safe operation clearly defined for the protection of those who fly it. On every airplane, whether it is civilian or military, there are certain boundaries of performance that must not be crossed. So long as the aircraft is operated within these boundaries, those aboard are exposed only to the normal hazards involved in taking a giant piece of machinery and flying it. Restrictions are primarily safety instructions.

For every aircraft, of course, there are certain performance standards that are set up in the contract and these must be met before the manufacturer is paid. It is possibly true that some of these contract standards have not yet been met by the C–5. But it is also true that over half of the complaints refer to problems which neither Lockheed nor the Air Force expected to be solved at this stage of production. It is a normal and inevitable part of the process of invention, discovery, engineering, and manufacture.

I have every confidence that the first delivery date of the C–5 will set the course of future events and will prove this to be a milestone in the development of the conquering of the ocean of air, which we are accomplishing at a greater technological pace than our forebears did with the ocean of water.

OILY AID

(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, during the debate on the foreign giveaway program on December 9, I called the attention of the House to the fact that the Agency for International Development has, incredibly, loaned oil-exporting Tunisia $3 million of the taxpayers' money to import oil.

I did not go into the details of this ridiculous transaction last week due to the length of the debate on the giveaway appropriation, but I am pleased to note that columnist Jack Anderson and his associate, Leslie Whitten, have published some of them.

I include the column for insertion in the RECORD at this point:

AID PUMPS OIL INTO OIL-RICH TUNISIA

(By Jack Anderson)

While the American motorist digs deep into his pockets every time he stops at a gas pump, the foreign aid program is pumping 12,000,000 barrels of oil into oil-rich Tunisia.

This is just one example of why President Nixon's $2.2 billion foreign aid request is being chopped by Congress. The Tunisian oil contract illustrates why even friends of foreign aid wince before they support $2.2 billion for the bumbling Agency for International Development.

And when AID combines with the hack-ridden Agriculture Department, as in the Tunisian case, the results are often dismaying for both the common treasury and common sense.

AID agreed to give Tunisia $10 million to develop its industry. The 40-year loan, at 2½ per cent, is virtually interest-free compared to what the U.S. housebuyer pays.

Tunisia decided to use much of the loan for crude oil, even though in 1968 it produced 23,503,000 barrels and only consumed 8,212,500.

AID says it was told Tunisia had plenty of high-grade oil, but needed low-grade fuel oil. Oil industry sources say Tunisia could easily make do with its own oil.

Nevertheless, AID let the Agriculture Department find the oil for Tunisia under a barter deal. Agriculture put out bids. Out of four bids, the lowest was $1.97 a barrel. The next was $2.65 a barrel.

AN $884,000 GOOF

Then came Agriculture's first nitwit decision. Instead of taking the low bid, the Agriculture Department chose to pay $2.65 a barrel, well over both the world price and the low bid.

This initial goof cost the taxpayer $884,000. The Agriculture Department explains that the extra money had to be paid to haul the oil in U.S. ships. This is absolutely contradicted by a requirement that the U.S. ships make a "fair and reasonable offer" compared with foreign vessels.

Despite the enormous differences in the bids, the Agriculture Department did not even ask for new bids, as it can do under law. Instead, with AID nodding approval, the contract was signed with the higher bidder.

As it turned out the higher bidder had promised higher grade oil. But when the U.S. examined the oil, they found it was not the high grade promised, but exactly the same grade oil as offered by the low bidder.

Startlingly, it turned out to be not only the same grade oil, but the same oil. The higher bidder, after winning the bid, talked the supplier of the low bidder into turning over his oil. The Agriculture Department, when reminded by this column of this drop in quality, promised to assess the higher bidder a penalty.

But penalty or not, the taxpayer still will have to pump out hundreds of thousands of dollars for overpriced oil going to a country that cannot even use all the oil it's producing now.

RESOLUTION BY NORTH MIAMI BEACH FOR SOCIAL SECURITY LEGISLATION

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

Mr. PEPPER. Mr. Speaker, I am sure you are aware that all over the country there is a strong demand for increased benefits, particularly to senior citizens, as well as other beneficiaries under social security legislation. We all take just pride in the House for passing H.R. 15095 providing an across the-board increase of 15 percent in benefits to the beneficiaries of our social security program. We would all hope I am sure that we can at an early date extend much more substantially such benefits. One of the very progressive and forward-looking bills which has been introduced in the House is H.R. 14430, introduced by the able gentleman from New York, JACOB GILBERT, and known as the Gilbert bill. I am very much pleased that the mayor and the city council of one of the very outstanding cities of my congressional district have endorsed the Gilbert bill because the mayor and the city council recognized the need for the enactment of such legislation. I insert the resolution of the mayor and the city council of North Miami Beach in the RECORD immediately following my remarks:

RESOLUTION BY MAYOR AND CITY COUNCIL OF NORTH MIAMI BEACH, FLA.

(A resolution urging the U.S. Congress to pass the Gilbert Bill—H.R. 14430)

Whereas, the attention of the Mayor and the City Council has been directed to national legislation, to-wit: the "Gilbert Bill" now pending before the Congress of the United States as H.R. 14430; and

Whereas, the City of Miami Beach enjoys the residence of many individuals presently depending upon Social Security, in whole or in part, to sustain themselves; and

Whereas, this City, as most of the nation, has suffered the effects of the inflationary trend now nationally existent; and

Whereas, our citizens are burdened constantly with rising costs for food and all services; and

Whereas, reluctantly, and in order to sustain the level of service necessary to care for its citizens, the City has been unable to prevent a necessitous raise in taxes; and

Whereas, it is recognized that such rising costs and expenses of living are particularly burdensome upon individuals whose income is fixed on straight dollar figures with no opportunity for a commensurate increase in accordance with rising cost of living; and

Whereas, it has been determined by the City Council that it is important to the health, safety and welfare of a substantial and cognizable number of its citizens that additional income be made available to those of its citizens presently living, or to be living, under Social Security.

Now, therefore,

Be it resolved by the City Council of the City of North Miami Beach, Florida:

Section 1: That the Mayor and City Council of the City of North Miami Beach, on behalf of themselves and the City of North Miami Beach, do hereby urge the Congress of the United States of America to pass the "Gilbert Bill", more particularly known as HR 14430, for the reasons above stated, and commend to their Representatives and Senators in Congress, to-wit: Honorable Claude Pepper, Honorable J. Herbert Burke, Honorable Dante B. Fascell, Honorable Spessard L. Holland, Honorable Edward J. Gurney, that they move forward expeditiously and assiduously to aid in the passage of this worthy and needed legislation.

Section 2: That the City Clerk be and she is hereby directed to forward suitably certified copies of this Resolution to the Congressional Representatives and Senators hereinabove set forth.

Approved and adopted in regular meeting assembled this 2d day of December, 1969.

DAVID M. PAPLEN,
Mayor.

Attest:

VIRGINIA H. MOORE,
City Clerk.

TRIBUTE TO DICK FAGAN

(Mrs. GREEN of Oregon asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. GREEN of Oregon. Mr. Speaker, the vogue recently has been either to criticize or to defend members of the press according to how fair or unfair we judge their treatment to be. However, in doing this we sometimes forget how important to our lives are the words of the great humanists and great wits who are at the same time great journalists.

Recently in my hometown of Portland, Oreg., a journalist of much wit and warmth died after a 2-year illness with lung cancer. Dick Fagan, a writer for the Portland, Oreg., Journal and a Portland journalist for more than 30 years, was a kind of an H. L. Mencken of our Pacific Northwest community. He was not nationally known because it was not his style to attempt to make big pronouncements to influence a nation of leaders, but he was more than known and admired among his readers in Oregon. He was truly the object of great affection.

As son of an Irishman he chose to live in the Pacific Northwest where his three decades of writing covered the comical, the serious, and the ridiculous.

He had sort of a writer's Fibber McGee's closet in his "Fagan Institute for Things Not Normally if Ever Researched." Sometimes he was off on a Quixotic battle against intemperate Scottish bagpipers who constantly plagued him. He complained that he could not tell which was worse, the bagpipers or his faulty plumbing. Sometimes he was busy establishing and adorning the "Mill Ends Park, the Smallest Park in the World," a tiny postage stamp size piece of earth he luckily found one day not to have been asphalted when a traffic divider was constructed in the street below his office.

But as often as his words were entertaining they were at the same time eloquent and wise. He had a warm and enjoyable message for us all in a relaxed and familiar style which is so peculiar to the Pacific Northwest. Dick Fagan transcended popularity; he was loved by his legion of friends and readers. In his passing, Portland has lost an important figure in the life of its community.

I include in the RECORD at this point, the first column that he wrote for the Oregon Journal and one of his very last in which he talked about his illness and his coming fate.

He will be remembered in the Pacific Northwest as one of the best loved and one of the truly great.

The columns follow:

[From the Portland (Oreg.) Journal, Nov. 21, 1969]

MILL ENDS

(By Dick Fagan)

(NOTE.—Dick Fagan, writer of Mill Ends column since January 28, 1947, died at 4 a.m. Thursday. Here is his first column.)

This reporter has been asked to take a splurge in "columnizing," and so today sees the birth of Mill Ends. As you know, mill ends are those irregular, rough pieces of lumber that are left over at a lumber mill, and usually used for firewood. The "Mill Ends" will deal with rough, irregular pieces of news opinion and talk that usually can't be sized up into a news story.

George Moorad, KGW's ace foreign affairs commentator who has done his newspapering all over the world, and I were discussing the possibility of a column. He comes up with, "Well, I don't know; for a column to be well read you've got to be mean. I don't think you've got a nasty enough disposition."

He doesn't know me very well.

Shortest recent editorial was by a newsie on the corner of SW 4th and Yamhill who wuxtraed, "Only one murder in Portland today. Things are quiet."

Although always an admirer of Milton Caniff's cartooning I've never quite forgiven him for all the trouble his gal "Lace" caused me while I was sitting out the war up in Alaska. GIs will remember Lace as quite a gal, but our top brass hat up there took exception to the derogatory way she talked about "genrals" and didn't think she sported enough duds for the Alaskan climate. Every week after our "Sourdough Sentinel" came out, I, as the guy in charge, could expect a summons from the "genral," and get plowed up one side and down the other for the way Lace dressed and things she beat her gums about. I explained again and again that the guys liked her, and she wasn't my protege, but I'd jerk the cartoon out if he ordered it. He'd never order it, but once wound up with the command, "Get more lace on that woman Lace."

It looks like legislators, lobbyists, et al. are standing by for a lynching bee at the Marion Hotel in Salem with almost every one having a coil of rope in his room. Those recent tragic hotel fires gave everyone a scare, and the capital boys are taking no chances of getting caught without some way of getting out unscorched. That is not necessarily intended to have a double meaning.

An amateur bookkeeper in Los Angeles has found that the ball point pen that writes under water also is best for marking queen bees, but Larry Howes, former Vancouver scribe and now a Journal police reporter, still claims his share of honors. Howes got one of the pens. He filled his bathtub with water, stripped down, got in and wrote on the bottom of his bathtub. It wrote okeh there, but now won't write on paper.

(Then on April 23, 1968, came this word:)

A number of my friends know about it, so I guess about the best thing to do is to tell you why my voice sounds the way it does.

I have cancer in the upper left lung, which apparently affects a nerve which, in turn, affects the left vocal cord, not letting it vibrate. The chest surgeon says he can't operate on it right now because of nerve and other complications in the area, but I'm taking cobalt treatments in hopes of shrinking the cancerous tissue. Later there may be an operation.

Now, I know you're naturally sympathetic about this, just as all of us are sympathetic about all persons having ailments. And, believe me, there are hundreds all around us with a lot worse than this. But I am finding that one of the most difficult things to fight is to keep from feeling sorry for myself—"why did this happen to little old me" sort of thing. So, not too much sympathy please. It isn't good for me.

I've had 57 years of very good health, and this is something that just has to be faced logically and scientifically, hoping for the best. If the best doesn't happen, then I just have to face whatever does happen.

This is the way things developed:

About five weeks ago my voice went hoarse. I didn't think much about it, because that has happened before as it has with most everyone. After a week or so it didn't clear up any, so I went to see our family doctor. He took a look at my throat, which he said was a little red, had his nurse give me a penicillin shot on the backside (she uses the dart method) and wrote out a prescription for sulfa tablets. He said if things didn't clear up in five or six days to call him. Well, it didn't clear up so he referred me to an eye, ear, nose and throat man.

He poked his illuminated mirror down my throat, but we had quite a time of it for a while. I have a horrible gag reaction, and it must have sounded to his patients in the waiting room as if he were trying to choke me to death and I was putting up a darned good battle. Finally he froze the throat, and found that the left vocal cord was not vibrating, but the throat "clean."

He had three theories—1. I might have had a slight stroke that paralyzed this little muscle. 2. I might have a tumor in the left chest affecting a nerve or nerves. 3. He was not sure what caused it, and it might clear itself up.

However, to take things in logical order he suggested I have a chest X-ray. Our family doctor took this and confided, "It doesn't look very good. I'm going to send you to a chest man."

So I reported to the chest doctor, who took a few notes, looked at the X-rays, confirmed there was a tumor there, and advised that I should go to the hospital so he could take a look through a bronchoscope, and take out a piece of tissue (or washings) to determine if the tumor was malignant.

The bronchoscope doesn't hurt because your throat is frozen, but it is a little uncomfortable. The next day he reported that the tumor was malignant, and he couldn't operate now under the circumstances. He suggested several places that give cobalt treatment, and I selected the one most convenient.

In the cobalt treatment they pinpoint the area to be hit by the radioactive cobalt rays, and put you under a machine that looks quite a bit like an X-ray. Just as in the X-ray you get no feeling at all, not even a bit of warmth. I have to do this five times a week for at least a month, possibly more, depending on what the rays do to the cancerous tissue.

I expect to be at work more or less as usual, although the doctor warned that the cobalt treatment might take a little of the pep out of me and affect my appetite. It affects different people in different degrees, but in most cases only in a minor way.

So that's the way things are. I won't say anything more about it unless something major happens. If you want to say a little prayer, that's fine—but not just for me, but for the thousands of persons who are really suffering and have little chance of recovery or relief. I'm lucky. I have a challenge but not an impossible one.

TAKE PRIDE IN AMERICA

Mr. MILLER of Ohio. Mr. Speaker, the United States has the oldest written constitution in the world. The form and structure of our federal system of government remains essentially the same today as it was 180 years ago when the Constitution was ratified.

FEDERAL COAL MINE HEALTH AND SAFETY ACT—CONFERENCE REPORT

Mr. PERKINS submitted the following conference report and statement on the bill (S. 2917), to improve the health and safety conditions of persons working in the coal-mining industry of the United States:

CONFERENCE REPORT (H. REPT. No. 91-761)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Federal Coal Mine Health and Safety Act of 1969".

FINDINGS AND PURPOSE

SEC. 2. Congress declares that—

(a) the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner;

(b) deaths and serious injuries from unsafe and unhealthful conditions and practices in the coal mines cause grief and suffering to the miners and to their families;

(c) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal mines in order to prevent death and serious physical harm, and in order to prevent occupational diseases originating in such mines;

(d) the existence of unsafe and unhealthful conditions and practices in the Nation's coal mines is a serious impediment to the future growth of the coal mining industry and cannot be tolerated;

(e) the operators of such mines with the assistance of the miners have the primary responsibility to prevent the existence of such conditions and practices in such mines;

(f) the disruption of production and the loss of income to operators and miners as a result of coal mine accidents or occupationally caused diseases unduly impedes and burdens commerce; and

(g) it is the purpose of this Act (1) to establish interim mandatory health and safety standards and to direct the Secretary of Health, Education, and Welfare and the Secretary of the Interior to develop and promulgate improved mandatory health or safety standards to protect the health and safety of the Nation's coal miners; (2) to require that each operator of a coal mine and every miner in such mine comply with such standards; (3) to cooperate with, and provide assistance to, the States in the development and enforcement of effective State coal mine health and safety programs; and (4) to improve and expand, in cooperation with the States and the coal mining industry, research and development and training programs aimed at preventing coal mine accidents and occupationally caused diseases in the industry.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior or his delegate;

(b) "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a place in a State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof;

(c) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(d) "operator" means any owner, lessee, or other person who operates, controls, or supervises a coal mine;

(e) "agent" means any person charged with responsibility for the operation of all or a part of a coal mine or the supervision of the miners in a coal mine;

(f) "person" means any individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization;

(g) "miner" means any individual working in a coal mine;

(h) "coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

(i) "work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine;

(j) "imminent danger" means the existence of any condition or practice in a coal mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(k) "accident" includes a mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of, any person;

(l) "mandatory health or safety standard" means the interim mandatory health or safely standards established by titles II and III of this Act, and the standards promulgated pursuant to title I of this Act; and

(m) "Panel" means the Interim Compliance Panel established by this Act.

MINES SUBJECT TO ACT

SEC. 4. Each coal mine, the products of which enter commerce, or the operations or products of which affect commerce, and each operator of such mine, and every miner in such mine shall be subjected to the provisions of this Act.

INTERIM COMPLIANCE PANEL

SEC. 5. (a) There is hereby established the Interim Compliance Panel, which shall be composed of five members as follows:

(1) Assistant Secretary of Labor for Labor Standards, Department of Labor, or his delegate;

(2) Director of the Bureau of Standards, Department of Commerce, or his delegate;

(3) Administrator of Consumer Protection and Environmental Health Service, Department of Health, Education, and Welfare, or his delegate;

(4) Director of the Bureau of Mines, Department of the Interior, or his delegate; and

(5) Director of the National Science Foundation, or his delegate.

(b) Members of the Panel shall serve without compensation in addition to that received in their regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Panel.

(c) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, the Secretary of Labor, and the Secretary shall, upon request of the Panel, provide the Panel such personnel and other assistance as the Panel determines necessary to enable it to carry out its functions under this Act.

(d) Three members of the Panel shall constitute a quorum for doing business. All decisions of the Panel shall be by majority vote. The chairman of the Panel shall be selected by the members from among the membership thereof.

(e) The Panel is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted in accordance with the provisions of this Act. The provisions applicable to hearing examiners appointed under section 3105 of title 5 of the United States Code shall be applicable to hearing examiners appointed pursuant to this subsection.

(f) (1) It shall be the function of the Panel to carry out the duties imposed on it pursuant to this Act and to provide an opportunity for a public hearing, after notice, at the request of an operator of the affected coal mine or the representative of the miners of such mine. Any operator or representative of miners aggrieved by a final decision of the Panel may file a petition for review of such decision under section 106 of this Act. The provisions of this section shall terminate upon completion of the Panel's functions as set forth under this Act. Any hearing held pursuant to this subsection shall be of record and the Panel shall make findings of fact and shall issue a written decision incorporating its findings therein in accordance with section 554 of title 5 of the United States Code.

(2) The Panel shall make an annual report, in writing, to the Secretary for transmittal by him to the Congress concerning the achievement of its purposes, and any other relevant information (including any recommendations) which it deems appropriate.

TITLE I—GENERAL

HEALTH AND SAFETY STANDARDS; REVIEW

SEC. 101. (a) The Secretary shall, in accordance with the procedures set forth in this section, develop, promulgate, and revise, as may be appropriate, improved mandatory safety standards for the protection of life and the prevention of injuries in a coal mine,

and shall, in accordance with the procedures set forth in this section, promulgate the mandatory health standards transmitted to him by the Secretary of Health, Education, and Welfare.

(b) No improved mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners below that provided by any mandatory health or safety standard.

(c) In the development and revision of mandatory safety standards, the Secretary shall consult with the Secretary of Health, Education, and Welfare, the Secretary of Labor, and with other interested Federal agencies, appropriate representatives of State agencies, appropriate representatives of the coal mine operators and miners, other interested persons and organizations, and such advisory committees as he may appoint. Such development and revision of mandatory safety standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of safety protection for miners, other considerations shall be the latest available scientific data in the field, the technical feasibility of the standards, and experience gained under this and other safety statutes.

(d) The Secretary of Health, Education, and Welfare shall, in accordance with the procedures set forth in this section, develop and revise, as may be appropriate, improved mandatory health standards for the protection of life and the prevention of occupational diseases of miners. In the development and revision of mandatory health standards, the Secertary of Health, Education, and Welfare shall consult with the Secretary, the Secretary of Labor, and with other interested Federal agencies, appropriate representatives of State agencies, appropriate representatives of the coal mine operators and miners, other interested persons and organizations, such advisory committees as he may appoint, and, where appropriate, foreign countries. Such development and revision of mandatory standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health protection for the miner, other considerations shall be the latest available scientific data in the field, the technical feasibility of the standards, and experience gained under this and other health statutes. Mandatory health standards which the Secretary of Health, Education, and Welfare develops or revises shall be transmitted to the Secretary, and shall thereupon be published in the Federal Register by the Secretary as proposed mandatory health standards.

(e) The Secretary shall publish proposed mandatory health and safety standards in the Federal Register and shall afford interested persons a period of not less than thirty days after publication to submit written data or comments. In the case of mandatory safety standards, except as provided in subsection (f) of this section, the Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such standards with such modifications as he may deem appropriate. In the case of mandatory health standards, except as provided in subsection (f) of this section, the Secretary of Health, Education, and Welfare may, upon the expiration of such period and after consideration of all relevant matter presented to the Secretary and transmitted to the Secretary of Health, Education, and Welfare, direct the Secretary to promulgate such standards with such modifications as the Secretary of Health, Education, and Welfare may deem appropriate and the Secretary shall thereupon promulgate such standards.

(f) On or before the last day of any period fixed for the submission of written data or comments under subsection (e) of this section, any interested person may file with the Secretary written objections to a proposed mandatory health or safety standard, stating the grounds therefor and requesting a public hearing on such objections. As soon as practicable after the period for filing such objections has expired, the Secretary shall publish in the Federal Register a notice specifying the proposed mandatory health or safety standards to which objections have been filed and a hearing requested.

(g) Promptly after any such notice is published in the Federal Register by the Secretary under subsection (f) of this section, the Secretary, in the case of mandatory safety standards, or the Secretary of Health, Education, and Welfare, in the case of mandatory health standards, shall issue notice of, and hold, a public hearing for the purpose of receiving relevant evidence. Within sixty days after completion of the hearings, the Secretary who held the hearing shall make findings of fact which shall be public. In the case of mandatory safety standards, the Secretary may promulgate such standards with such modifications as he deems appropriate. In the case of mandatory health standards, the Secretary of Health, Education, and Welfare may direct the Secretary to promulgate the mandatory health standards with such modifications as the Secretary of Health, Education, and Welfare deems appropriate and the Secretary shall thereupon promulgate the mandatory health standards. In the event the Secretary or the Secretary of Health, Education, and Welfare, as the case may be, determines that a proposed mandatory health or safety standard should not be promulgated or should be modified, he shall within a reasonable time publish his reasons for his determination.

(h) Any mandatory health or safety standard promulgated under this section shall be effective upon publication in the Federal Register unless the Secretary or the Secretary of Health, Education, and Welfare, as appropriate, specifies a later date.

(i) Proposed mandatory health and safety standards for surface coal mines shall be published by the Secretary, in accordance with the provisions of this section, not later than twelve months after the date of enactment of this Act. Proposed mandatory health and safety standards for surface work areas of underground coal mines, in addition to those established for such areas under this Act, shall be published by the Secretary, in accordance with the provisions of this section, not later than twelve months after the date of enactment of this Act.

(j) All interpretations, regulations, and instructions of the Secretary or the Director of the Bureau of Mines, in effect on the date of enactment of this Act and not inconsistent with any provision of this Act, shall be published in the Federal Register and shall continue in effect until modified or superseded in accordance with the provisions of this Act.

(k) The Secretary shall send a copy of every proposed standard or regulation at the time of publication in the Federal Register to the operator of each coal mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

ADVISORY COMMITTEES

SEC. 102. (a)(1) The Secretary shall appoint an advisory committee on coal mine safety research composed of—

(A) the Director of the Office of Science and Technology, or his delegate, with the consent of the Director;

(B) the Director of the National Bureau of Standards, Department of Commerce, or his delegate, with the consent of the Director;

(C) the Director of the National Science Foundation, or his delegate, with the consent of the Director; and

(D) such other persons as the Secretary may appoint who are knowledgeable in the field of coal mine safety research.

The Secretary shall designate the chairman of the committee.

(2) The advisory committee shall consult with, and make recommendations to, the Secretary on matters involving or relating to coal mine safety research. The Secretary shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grant, and the entering into of contracts for such research.

(3) The chairman of the committee and a majority of the persons appointed by the Secretary pursuant to paragraph (1)(D) of this subsection shall be individuals who have no economic interests in the coal mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(b)(1) The Secretary of Health, Education, and Welfare shall appoint an advisory committee on coal mine health research composed of—

(A) the Director, Bureau of Mines, or his delegate, with the consent of the Director;

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

(C) the Director of the National Institutes of Health, or his delegate, with the consent of the Director; and

(D) such other persons as the Secretary of Health, Education, and Welfare may appoint who are knowledgeable in the field of coal mine health research.

The Secretary of Health, Education, and Welfare shall designate the chairman of the committee.

(2) The advisory committee shall consult with, and make recommendations to, the Secretary of Health, Education, and Welfare on matters involving or relating to coal mine health research. The Secretary of Health, Education, and Welfare shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grant, and the entering into of contracts for such research.

(3) The chairman of the committee and a majority of the persons appointed by the Secretary of Health, Education, and Welfare pursuant to paragraph (1)(D) of this subsection shall be individuals who have no economic interests in the coal mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(c) The Secretary or the Secretary of Health, Education, and Welfare may appoint other advisory committees as he deems appropriate to advise him in carrying out the provisions of this Act. The Secretary or the Secretary of Health, Education, and Welfare, as the case may be, shall appoint the chairman of each such committee, who shall be an individual who has no economic interest in the coal mining industry, and who is not an operator, miner, or an officer or employee of the Federal Government or any State or local government. A majority of the members of any such advisory committee appointed pursuant to this subsection shall be composed of individuals who have no economic interests in the coal mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(d) Advisory committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the appropriate Secretary but not in excess of the maximum rate of pay for grade GS–18 as provided in the General Schedule under

section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

INSPECTIONS AND INVESTIGATIONS

SEC. 103. (a) Authorized representatives of the Secretary shall make frequent inspections and investigations in coal mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether or not there is compliance with the mandatory health or safety standards or with any notice. order, or decision issued under this title. In carrying out the requirements of clauses (3) and (4) of this subsection, no advance notice of an inspection shall be provided to any person. In carrying out the requirements of clauses (3) and (4) of this subsection in each underground coal mine, such representatives shall make inspections of the entire mine at least four times a year.

(b)(1) For the purpose of making any inspection or investigation under this Act, the Secretary or any authorized representative of the Secretary shall have a right of entry to, upon, or through any coal mine.

(2) For the purpose of developing improved mandatory health standards, the Secretary of Health, Education, and Welfare or his authorized representative shall have a right of entry to, upon, or through, any coal mine.

(3) The provisions of this Act relating to investigations and records shall be available to the Secretary of Health, Education, and Welfare to enable him to carry out his functions and responsibilities under this Act.

(c) For the purpose of carrying out his responsibilities under this Act, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

(d) For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) In the event of any accident occurring in a coal mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a coal mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, surpervise and direct the rescue and recovery activity in such mine.

(f) In the event of any accident occurring in a coal mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in the mine or to recover the mine or to return affected areas of the mine to normal.

(g) Whenever a representative of the miners has reasonable grounds to believe that a violation of a mandatory health or safety standard exists, or an imminent danger exists, such representative shall have a right to obtain an immediate inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, signed by the representative of the miners, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual miners referred to therein shall not appear in such copy. Upon receipt of such notification, a special inspection shall be made as soon as possible to determine if such violation or danger exists in accordance with the provisions of this title.

(h) At the commencement of any inspection of a coal mine by an authorized representative of the Secretary, the authorized representative of the miners at the mine at the time of such inspection shall be given an opportunity to accompany the authorized representative of the Secretary on such inspection.

(i) Whenever the Secretary finds that a mine liberates excessive quantities of methane or other explosive gases during its operations, or that a methane or other gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine other especially hazardous conditions, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine during every five working days at irregular intervals.

FINDINGS, NOTICES, AND ORDERS

SEC. 104. (a) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall determine the area throughout which such danger exists, and thereupon shall issue forthwith an order requiring the operator of the mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger no longer exists.

(b) Except as provided in subsection (i) of this section, if, upon any inspection of a coal mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard but the violation has not created an imminent danger, he shall issue a notice to the operator or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, an authorized representative of the Secretary finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violation has been abated.

(c)(1). If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could significantly and substantially contribute to the cause and effect of a mine safety or health hazard, and if he finds such violation to be caused by an unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in any notice given to the operator under this Act. If, during the same inspection or any subsequent inspection of such mine within ninety days after the issuance of such notice, an authorized representative of the Secretary finds another violation of any mandatory health or safety standard and finds such violation to be also caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a mine has been issued pursuant to paragraph (1) of this subsection, a withdrawal order shall promptly be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) of this subsection until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisions of paragraph (1) of this subsection shall again be applicable to that mine.

(d) The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal mine subject to an order issued under this section:

(1) any person whose presence in such area is necessary, in the judgment of the operator or an authorized representative of the Secretary, to eliminate the condition described in the order;

(2) any public official whose official duties require him to enter such area;

(3) any representative of the miners in such mine who is, in the judgment of the operator or an authorized representative of the Secretary, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order; and

(4) any consultant to any of the foregoing.

(e) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any mandatory health or safety standard and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(f) Each notice or order issued under this section shall be given promptly to the operator of the coal mine or his agent by an authorized representative of the Secretary issuing such notice or order, and all such notices and orders shall be in writing and shall be signed by such representative.

(g) A notice or order issued pursuant to

this section, except an order issued under subsection (h) of this section, may be modified or terminated by an authorized representative of the Secretary.

(h) (1) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners to present information relating to such notice.

(2) Upon the conclusion of such investigation and an opportunity for a public hearing upon request by any interested party, the Secretary shall make findings of fact, and shall by decision incorporating such findings therein, either cancel the notice issued under this subsection or issue an order requiring the operator of such mine to cause all persons in the area affected, except those persons referred to in subsection (d) of this section, to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a public hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated. Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(i) If, based upon samples taken and analyzed and recorded pursuant to section 202(a) of this Act, or samples taken during an inspection by an authorized representative of the Secretary, the applicable limit on the concentration of respirable dust required to be maintained under this Act is exceeded and thereby violated, the Secretary or his authorized representative shall issue a notice fixing a reasonable time for the abatement of the violation. During such time, the operator of the mine shall cause samples described in section 202(a) of this Act to be taken of the affected area during each production shift. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Secretary or his authorized representative has reason to believe, based on actions taken by the operator, that such limit will be complied with upon the resumption of production in such mine. As soon as possible after an order is issued, the Secretary, upon request of the operator, shall dispatch to the mine involved a person or team of persons, to the extent such persons are available, who are knowledgeable in the methods and means of controlling and reducing respirable dust. Such person or team of persons shall remain at the mine involved for such time as they shall deem appropriate to assist the operator in reducing respirable dust concentrations. While at the mine, such persons may require the operator to take such actions as they deem appropriate to insure the health of any person in the coal mine.

REVIEW BY THE SECRETARY

SEC. 105. (a) (1) An operator issued an order pursuant to the provisions of section 104 of this title, or any representative of miners in any mine affected by such order or by any modification or termination of such order, may apply to the Secretary for review of the order within thirty days of receipt thereof or within thirty days of its modification or termination. An operator issued a notice pursuant to section 104(b) or (i) of this title, or any representative of miners in any mine affected by such notice, may, if he believes that the period of time fixed in such notice for the abatement of the violation is unreasonable, apply to the Secretary for review of the notice within thirty days of the receipt thereof. The applicant shall send a copy of such application to the representative of miners in the affected mine, or the operator, as appropriate. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the operator or the representative of miners in such mine, to enable the operator and the representative of miners in such mine to present information relating to the issuance and continuance of such order or the modification or termination thereof or to the time fixed in such notice. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The operator and the representative of the miners shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and he shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the order, or the modification or termination of such order, or the notice, complained of and incorporate his findings therein.

(c) In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, all actions which the Secretary takes under this section shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

(d) Pending completion of the investigation required by this section, the applicant may file with the Secretary of a written request that the Secretary grant temporary relief (1) from any modification or termination of any order, or (2) from any order issued under section 104 of this title, except an order issued under section 104(a) of this title, together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to the applicant; and

(3) such relief will not adversely affect the health and safety of miners in the coal mine.

No temporary relief shall be granted in the case of a notice issued under section 104 (b) or (i) of this title.

JUDICIAL REVIEW

SEC. 106. (a) Any order or decision issued by the Secretary or the Panel under this Act, except an order or decision under section 109(a) of this Act, shall be subject to judicial review by the United States court of appeals for the circuit in which the affected mine is located, or the United States Court of Appeals for the District of Columbia Circuit, upon the filing in such court within thirty days from the date of such order or decision of a petition by any person aggrieved by the order or decision praying that the order or decision be modified or set aside in whole or in part, except that the court shall not consider such petition unless such person has exhausted the administrative remedies available under this Act. A copy of the petition shall forthwith be sent by registered or certified mail to the other party and to the Secretary or the Panel, and thereupon the Secretary or the Panel shall certify and file in such court the record upon which the order or decision complained of was issued, as provided in section 2112 of title 28, United States Code.

(b) The court shall hear such petition on the record made before the Secretary or the Panel. The findings of the Secretary or the Panel, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary or the Panel for such further action as it may direct.

(c) (1) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, except an order or decision pertaining to an order issued under section 104(a) of this title or an order or decision pertaining to a notice issued under section 104(b) or (i) of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding if—

(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(C) such relief will not adversely affect the health and safety of miners in the coal mine.

(2) In the case of a proceeding to review any order or decision issued by the Panel under this Act, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding if—

(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief; and

(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding.

(d) The judgment of the court shall be subject to review only by the Supreme Court of the United States upon a writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Secretary or the Panel.

(f) Subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28 of the United States Code, attorneys appointed by the Secretary may appear for and represent him in any preceeding instituted under this section.

POSTING OF NOTICES, AND DECISIONS

SEC. 107. (a) At each coal mine there shall be maintained an office with a conspicuous sign designating it as the office of the mine, and a bulletin board at such office or at some conspicuous place near an entrance of the mine, in such manner that notices, orders, and decisions required by law or regulation to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be

protected against damage by weather and against unauthorized removal. A copy of any notice, order, or decision required by this title to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

(b) The Secretary shall cause a copy of any notice, order, or decision required by this Act to be given to an operator to be mailed immediately to a representative of the miners in the affected mine, and to the public official or agency of the State charged with administering State laws, if any, relating to health, or safety in such mine. Such notice, order, or decision shall be available for public inspection.

(c) In order to insure prompt compliance with any notice, order, or decision issued under this Act, the authorized representative of the Secretary may deliver such notice, order, or decision to an agent of the operator and such agent shall immediately take appropriate measures to insure compliance with such notice, order, or decision.

(d) Each operator of a coal mine shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal mine shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine and such official shall receive a copy of any notice, order, or decision issued under this Act affecting such mine. In any case, where the coal mine is subject to the control of any person not directly involved in the daily operations of the coal mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal mine subject to the control of such person and such official shall receive a copy of any notice, order, or decision issued affecting any such mine. The mere designation of a health and safety official under this subsection shall not be construed as making such official subject to any penalty under this Act.

INJUNCTIONS

SEC. 108. The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a coal mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (a) violates or fails or refuses to comply with any order or decision issued under this Act, or (b) interferes with, hinders, or delays the Secretary or his authorized representative, or the Secretary of Health, Education, and Welfare or his authorized representative in carrying out the provisions of this Act, or (c) refuses to admit such representatives to the mine, or (d) refuses to permit the inspection of the mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine, or (e) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the provisions of this Act, or (f) refuses to permit access to, and copying of, such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out the provisions of this Act. Each court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it. In actions under this section, subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28 of the United States Code, attorneys appointed by the Secretary may appear for and represent him. In any action instituted under this section to enforce an order or decision issued by the Secretary after a public hearing in accordance with section 554 of title 5 of the United States Code, the findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

PENALTIES

SEC. 109. (a) (1) The operator of a coal mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of this Act, except the provisions of title 4, shall be assessed a civil penalty by the Secretary under paragraph (3) of this subsection which penalty shall not be more than $10,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense. In determining the amount of the penalty, the Secretary shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

(2) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Secretary under paragraph (3) of this subsection, which penalty shall not be more than $250 for each occurrence of such violation.

(3) A civil penalty shall be assessed by the Secretary only after the person charged with a violation under this Act has been given an opportunity for a public hearing and the Secretary has determined, by decision incorporating his findings of fact therein, that a violation did occur, and the amount of the penalty which is warranted, and incorporating, when appropriate, an order therein requiring that the penalty be paid. Where appropriate, the Secretary shall consolidate such hearings with other proceedings under section 105 of this title. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(4) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Secretary shall file a petition for enforcement of such order in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and to the representative of the miners in the affected mine or the operator, as the case may be, and thereupon the Secretary shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as to modified, or setting aside in whole or in part the order and decision of the Secretary or it may remand the proceedings to the Secretary for such further action as it may direct. The court shall consider and determine de novo all relevant issues, except issues of fact which were or could have been litigated in review proceedings before a court of appeals under section 106 of this Act, and upon the request of the respondent, such issues of fact which are in dispute shall be submitted to the jury. On the basis of the jury's findings, the court shall determine the amount of the penalty to be imposed. Subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28 of the United States Code, atttorneys appointed by the Secretary may appear for and represent him in any action to enforce an order assessing civil penalties under this paragraph.

(b) Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 104 of this title, or any order incorporated in a final decision issued under this title, except an order incorporated in a decision under subsection (a) of this section or section 110 (b)(2) of this title, shall, upon conviction, be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this Act, punishment shall be by a fine of not more than $50,000, or by imprisonment of not more than five years, or by both.

(c) Whenever a corporate operator violates a mandatory health or safety standard or knowingly violates or fails or refuses to comply with any order issued under this Act or any order incorporated in a final decision issued under this Act, except an order incorporated in a decision issued under subsection (a) of this section or section 110(b)(2) of this title, any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (b) of this section.

(d) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act or any order or decision issued under this Act shall, upon conviction, be punished by a fine for not more than $10,000, or by imprisonment of not more than six months, or by both.

(e) Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal mine, including, but not limited to, components and accessories of such equipment, which is represented as complying with the provisions of this Act, or with any specification or regulation of the Secretary applicable to such equipment, and which does not so comply, shall, upon conviction, be subject to the same fine and imprisonment that may be imposed upon a person under subsection (d) of this section.

ENTITLEMENT OF MINERS

SEC. 110. (a) If a coal mine or area of a coal mine is closed by an order issued under section 104 of this title, all miners working during the shift when such order was issued who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a coal mine or area of a coal mine is closed by an order issued under section 104 of this title for an unwarrantable failure of the operator to comply

with any health or safety standard, all miners who are idled due to such order shall be fully compensated, after all interested parties are given an opportunity for a public hearing on such compensation and after such order is final, by the operator for lost time at their regular rates of pay for such time as the miners are idled by such closing, or for one week, whichever is the lesser. Whenever an operator violates or fails or refuses to comply with any order issued under section 104 of this Act, all miners employed at the affected mine who would be withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with; vacated, or terminated.

(b) (1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any miner or any authorized representative of miners by reason of the fact that such miner or representative (A) has notified the Secretary or his authorized representative of any alleged violation or danger, (B) has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or (C) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(2) Any miner or a representative of miners who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing of at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner or representative of miners to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein. Any order issued by the Secretary under this paragraph shall be subject to judicial review in accordance with section 106 of this Act. Violations by any person of paragraph (1) of this subsection shall be subject to the provisions of sections 108 and 109(a) of this title.

(3) Whenever an order is issued under this subsection, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

REPORTS

SEC. 111. (a) All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents, roof falls, and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons. Such records shall include man-hours worked and shall be reported for periods determined by the Secretary, but at least annually.

(b) In addition to such records as are specifically required by this Act, every operator of a coal mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

TITLE II—INTERIM MANDATORY HEALTH STANDARDS

COVERAGE

SEC. 201. (a) The provisions of sections 202 through 206 of this title and the applicable provisions of section 318 of title III shall be interim mandatory health standards applicable to all underground coal mines until superseded in whole or in part by improved mandatory health standards promulgated by the Secretary under the provisions of section 101 of this Act, and shall be enforced in the same manner and to the same extent as any mandatory health standard promulgated under the provisions of section 101 of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in title I of this Act.

(b) Among other things, it is the purpose of this title to provide, to the greatest extent possible, that the working conditions in each underground coal mine are sufficiently free of respirable dust concentrations in the mine atmosphere to permit each miner the opportunity to work underground during the period of his entire adult working life without incurring any disability from pneumoconiosis or any other occupation-related disease during or at the end of such period.

DUST STANDARD AND RESPIRATORY EQUIPMENT

SEC. 202. (a) Each operator of a coal mine shall take accurate samples of the amount of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed. Such samples shall be taken by any device approved by the Secretary and the Secretary of Health, Education, and Welfare and in accordance with such methods, at such locations, at such intervals, and in such manner as the Secretaries shall prescribe in the Federal Register within sixty days from the date of enactment of this Act and from time to time thereafter. Such samples shall be transmitted to the Secretary in a manner established by him, and analyzed and recorded by him in a manner that will assure application of the provisions of section 104(1) of this act when the applicable limit on the concentration of respirable dust required to be maintained under this section is exceeded. The results of such samples shall also be made available to the operator. Each operator shall report and certify to the Secretary at such intervals as the Secretary may require as to the conditions in the active workings of the coal mine, including, but not limited to, the average number of working hours worked during each shift, the quantity and velocity of air regularly reaching the working faces, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.

(b) Except as otherwise provided in this subsection—

(1) Effective on the operative date of this title, each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 3.0 milligrams of respirable dust per cubic meter of air.

(2) Effective three years after the date of enactment of this Act, each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 2.0 milligrams of respirable dust per cubic meter of air.

(3) Any operator who determines that he will be unable, using available technology, to comply with the provisions of paragraph (1) of this subsection, or the provisions of paragraph (2) of this subsection, as appropriate, may file with the Panel, no later than sixty days prior to the effective date of the applicable respirable dust standard established by such paragraphs, an application for a permit for noncompliance. If, in the case of an application for a permit for noncompliance with the 3.0 milligram standard established by paragraph (1) of this subsection, the application satisfies the requirements of subsection (c) of this section, the Panel shall issue a permit for noncompliance to the operator. If, in the case of an application for a permit for noncompliance with the 2.0 milligram standard established by paragraph (2) of this subsection, the application satisfies the requirements of subsection (c) of this section and the Panel determines that the applicant will be unable to comply with such standard, the Panel shall issue to the operator a permit for noncompliance.

(4) In any case in which an operator, who has been issued a permit (including a renewal permit) for noncompliance under this section, determines, not more than ninety days prior to the expiration date of such permit, that he still is unable to comply with the standard established by paragraph (1) of this subsection or the standard established by paragraph (2) of this subsection, as appropriate, he may file with the Panel an application for renewal of the permit. Upon receipt of such application, the Panel, if it determines, after all interested persons have been notified and given an opportunity for a public hearing under section 5 of this Act, that the application is in compliance with the provisions of subsection (c) of this section, and that the applicant will be unable to comply with such standard, may renew the permit.

(5) Any such permit or renewal thereof so issued shall be in effect for a period not to exceed one year and shall entitle the permittee during such period to maintain continuously the average concentration of respirable dust in the mine atmosphere during each shift in the working places of such mine to which the permit applies at a level specified by the Panel, which shall be at the lowest level which the application shows the conditions, technology applicable to such mine, and other available and effective control techniques and methods will permit, but in no event shall such level exceed 4.5 milligrams of dust per cubic meter of air during the period when the 3.0 milligram standard is in effect, or 3.0 milligrams of dust per cubic meter of air during the period when the 2.0 milligram standard is in effect.

(6) No permit or renewal thereof for noncompliance shall entitle any operator to an

extension of time beyond eighteen months from the date of enactment of this Act to comply with the 3.0 milligram standard established by paragraph (1) of this subsection, or beyond seventy-two months from the date of enactment of this Act to comply with the 2.0 milligram standard established by paragraph (2) of this subsection.

(c) Any application for an initial or renewal permit made pursuant to this section shall contain—

(1) a representation by the applicant and the engineer conducting the survey referred to in paragraph (2) of this subsection that the applicant is unable to comply with the standard applicable under subsection (b) (1) or (b) (2) of this section at specified working places because the technology for reducing the concentration of respirable dust at such places is not available, or because of the lack of other effective control techniques or methods, or because of any combination of such reasons;

(2) an identification of the working places in such mine for which the permit is requested; the results of an engineering survey by a certified engineer of the respirable dust conditions of each working place of the mine with respect to which such application is filed and the ability to reduce such dust to the level required to be maintained in such place under this section; a description of the ventilation system of the mine and its capacity; the quantity and velocity of air regularly reaching the working faces; the method of mining; the amount and pressure of the water, if any, reaching the working faces; the number, location, and type of sprays, if any; action taken to reduce such dust; and such other information as Panel may require; and

(3) statements by the applicant and the engineer conducting such survey, of the means and methods to be employed to achieve compliance with the applicable standard, the progress made toward achieving compliance, and an estimate of when compliance can be achieved.

(d) Beginning six months after the operative date of this title and from time to time thereafter, the Secretary of Health, Education, and Welfare shall establish, in accordance with the provisions of section 101 of this Act, a schedule reducing the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings is exposed below the levels established in this section to a level of personal exposure which will prevent new incidences of respiratory disease and the further development of such disease in any person. Such schedule shall specify the minimum time necessary to achieve such levels taking into consideration present and future advancements in technology to reach these levels.

(e) References to concentrations of respirable dust in this title means the average concentration of respirable dust if measured with an MRE instrument or such equivalent concentrations if measured with another device approved by the Secretary and the Secretary of Health, Education, and Welfare. As used in this title, the term "MRE instrument" means the gravimetric dust sampler with four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

(f) For the purpose of this title, the term "average concentration" means a determination which accurately represents the atmospheric conditions with regard to respirable dust to which each miner in the active workings of a mine is exposed (1) as measured, during the 18 month period following the date of enactment of this Act, over a number of continuous production shifts to be determined by the Secretary and the Secretary of Health, Education, and Welfare, and (2) as measured thereafter, over a single shift only, unless the Secretary and the Secretary of Health, Education, and Welfare find, in accordance with the provisions of section 101 of this Act, that such single shift measurement will not, after applying valid statistical techniques to such measurement, accurately represent such atmospheric conditions during such shift.

(g) The Secretary shall cause to be made such frequent spot inspections as he deems appropriate of the active workings of coal mines for the purpose of obtaining compliance with the provisions of this title.

(h) Respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare shall be made available to all persons whenever exposed to concentrations of respirable dust in excess of the levels required to be maintained under this Act. Use of respirators shall not be substituted for environmental control measures in the active workings. Each operator shall maintain a supply of respiratory equipment adequate to deal with occurrences of concentrations of respirable dust in the mine atmosphere in excess of the levels required to be maintained under this Act.

MEDICAL EXAMINATIONS

SEC. 203 (a) The operator of a coal mine shall cooperate with the Secretary of Health, Education, and Welfare in making available to each miner working in a coal mine the opportunity to have a chest roentgenogram within eighteen months after the date of enactment of this Act, a second chest roentgenogram within three years thereafter, and subsequent chest roentgenograms at such intervals thereafter of not to exceed five years as the Secretary of Health, Education, and Welfare prescribes. Each worker who begins work in a coal mine for the first time shall be given, as soon as possible after commencement of his employment, and again three years later if he is still engaged in coal mining, a chest roentgenogram; and in the event the second such chest roentgenogram shows evidence of the development of pneumoconiosis the worker shall be given, two years later if he is still engaged in coal mining, an additional chest roentgenogram. All chest roentgenograms shall be given in accordance with specifications prescribed by the Secretary of Health, Education, and Welfare and shall be supplemented by such other tests as the Secretary of Health, Education, and Welfare deems necessary. The films shall be read and classified in a manner to be prescribed by the Secretary of Health, Education, and Welfare, and the results of each reading on each such person and of such tests shall be submitted to the Secretary and to the Secretary of Health, Education, and Welfare, and, at the request of the miner, to his physician. The Secretary shall also submit such results to such miner and advise him of his rights under this Act related thereto. Such specifications, readings, classifications, and tests shall, to the greatest degree possible, be uniform for all coal mines and miners in such mines.

(b) (1) On and after the operative date of this title, any miner who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading or other medical examinations, shows evidence of the development of pneumoconiosis shall be afforded the option of transferring from his position to another position in any area of the mine, for such period or periods as may be necessary to prevent further development of such disease, where the concentration of respirable dust in the mine atmosphere is not more than 2.0 milligrams of dust per cubic meter of air.

(2) Effective three years after the date of enactment of this Act, any miner who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading or other medical examinations, shows evidence of the development of pneumoconiosis shall be afforded the option of transferring from his position to another position in any area of the mine, for such period or periods as may be necessary to prevent further development of such disease, where the concentration of respirable dust in the mine atmosphere is not more than 1.0 milligram of dust per cubic meter of air, or if such level is not attainable in such mine, to a position in such mine where the concentration of respirable dust is the lowest attainable below 2.0 milligrams per cubic meter of air.

(3) Any miner so transferred shall receive compensation for such work at not less than the regular rate of pay received by him immediately prior to his transfer.

(c) No payment may be required of any miner in connection with any examination or test given him pursuant to this title. Where such examinations or tests cannot be given, due to the lack of adequate medical or other necessary facilities or personnel, in the locality where the miner resides, arrangements shall be made to have them conducted, in accordance with the provisions of this title, in such locality by the Secretary of Health, Education, and Welfare, or by an appropriate person, agency, or institution, public or private, under an agreement or arrangement between the Secretary of Health, Education, and Welfare and such person, agency, or institution. The operator of the mine shall reimburse the Secretary of Health, Education, and Welfare, or such person, agency, or institution, as the case may be, for the cost of conducting each examination or test made, in accordance with this title, and shall pay whatever other costs are necessary to enable the miner to take such examinations or tests.

(d) If the death of any active miner occurs in any coal mine, or if the death of any active or inactive miner occurs in any other place, the Secretary of Health, Education, and Welfare is authorized to provide for an autopsy to be performed on such miner, with the consent of his surviving widow or, if he has no such widow, then with the consent of his surviving next of kin. The results of such autopsy shall be submitted to the Secretary of Health, Education, and Welfare and, with the consent of such survivor, to the miner's physician or other interested person. Such autopsy shall be paid for by the Secretary of Health, Education, and Welfare.

DUST FROM DRILLING ROCK

SEC. 204. The dust resulting from drilling in rock shall be controlled by the use of permissible dust collectors, or by water or water with a wetting agent, or by ventilation, or by any other method or device approved by the Secretary which is at least as effective in controlling such dust. Respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare shall be provided persons exposed for short periods to inhalation hazards from gas, dusts, fumes, or mist. When the exposure is for prolonged periods, other measures to protect such persons or to reduce the hazard shall be taken.

DUST STANDARD WHEN QUARTZ IS PRESENT

SEC. 205. In coal mining operations where the concentration of respirable dust in the mine atmosphere of any working place contains more than 5 per centum quartz, the Secretary of Health, Education, and Welfare shall prescribe an appropriate formula for determining the applicable respirable dust standard under this title for such working place and the Secretary shall apply such formula in carrying out his duties under this title.

NOISE STANDARD

SEC. 206. On and after the operative date of this title, the standards on noise prescribed under the Walsh-Healey Public Contracts Act, as amended, in effect October 1, 1969, shall be applicable to each coal mine

and each operator of such mine shall comply with them. Within six months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare shall establish, and the Secretary shall publish, as provided in section 101 of this Act, proposed mandatory health standards establishing maximum noise exposure levels for all underground coal mines. Beginning six months after the operative date of this title, and at intervals of at least every six months thereafter, the operator of each coal mine shall conduct, in a manner prescribed by the Secretary of Health, Education, and Welfare, tests by a qualified person of the noise level at the mine and report and certify the results to the Secretary and the Secretary of Health, Education, and Welfare. In meeting such standard under this section, the operator shall not require the use of any protective device or system, including personal devices, which the Secretary or his authorized representative finds to be hazardous or cause a hazard to the miners in such mine.

TITLE III—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

COVERAGE

SEC. 301. (a) The provisions of sections 302 through 318 of this title shall be interim mandatory safety standards applicable to all underground coal mines until superseded in whole or in part by improved mandatory safety standards promulgated by the Secretary under the provisions of section 101 of this Act, and shall be enforced in the same manner and to the same extent as any mandatory safety standard promulgated under section 101 of this Act. Any orders issued in the enforcement of the interim standards set forth in this title shall be subject to review as provided in title I of this Act.

(b) The purpose of this title is to provide for the immediate application of mandatory safety standards developed on the basis of experience and advances in technology and to prevent newly created hazards resulting from new technology in coal mining. The Secretary shall immediately initiate studies, investigations, and research to further upgrade such standards and to develop and promulgate new and improved standards promptly that will provide increased protection to the miners, particularly in connection with hazards from trolley wires, trolley feeder wires, and signal wires, the splicing and use of trailing cables, and in connection with improvements in vulcanizing of electric conductors, improvement in roof control measures, methane drainage in advance of mining, improved methods of measuring methane and other explosive gases and oxygen concentrations, and the use of improved underground equipment and other sources of power for such equipment.

(c) Upon petition by the operator or the representative of miners, the Secretary may modify the application of any mandatory safety standard to a mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the operator or the representative of miners in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of such operator or representative or other interested party, to enable the operator and the representative of miners in such mine or other interested party to present information relating to the modification of such standard. The Secretary shall issue a decision incorporating his findings of fact therein, and send a copy thereof to the operator or the representative of the miners, as appropriate. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(d) In any case where the provisions of sections 302 to 318, inclusive, of this title provide that certain actions, conditions, or requirements shall be carried out as prescribed by the Secretary, or the Secretary of Health, Education, and Welfare, as appropriate, the provisions of section 553 of title 5 of the United States Code shall apply unless either Secretary otherwise provides. Before granting any exception to a mandatory safety standard as authorized by this title, the findings of the Secretary or his authorized representative shall be made public and shall be available to the representative of the miners at the affected coal mine.

ROOF SUPPORT

SEC. 302. (a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine and approved by the Secretary shall be adopted and set out in printed form within sixty days after the operative date of this title. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every six months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan and the absence of such support will not pose a hazard to the miners. A copy of the plan shall be furnished the Secretary or his authorized representative and shall be available to the miners and their representatives.

(b) The method of mining followed in any coal mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(c) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mine as the Secretary may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof boltholes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(d) When installation of roof bolts is permitted, such roof bolts shall be tested in accordance wtih the approved roof control plan.

(e) Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

(f) Where miners are exposed to danger from falls of roof, face, and ribs the operator shall examine and test the roof, face, and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safty. When dangerous conditions are found, they shall be corrected immediately.

VENTILATION

SEC. 303. (a) All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

(b) All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be nine thousand cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be nine thousand cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be three thousand cubic feet a minute. Within three months after the operative date of this title, the Secretary shall prescribe the minimum velocity and quantity of air reaching each working face of each coal mine in order to render harmless and carry away methane and other explosive gases and to reduce the level of respirable dust to the lowest attainable level. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. Within one year after the operative date of this title, the Secretary or his authorized representative shall prescribe the maximum respirable dust level in the intake aircourses in each coal mine in order to reduce such level to the lowest attainable level. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

(c) (1) Properly installed and adequately maintained line brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive, and noxious gases, dust, and explosion fumes, unless the Secretary or his authorized representative permits an exception to this requirement, where such exception will not pose a hazard to the miners. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(2) The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive, and noxious gases, dust, and explosive fumes.

(3) Brattice cloth used underground shall be of flame-resistant material.

(d) (1) Within three hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall

make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date and time at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "DANGER" sign conspicuously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination, such mine examiner shall report the results of his examination to a person, designated by the operator to receive such reports at a designated station on the surface of the mine, before other persons enter the underground areas of such mine to work in such shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(2) No person (other than certified persons designated under this subsection) shall enter any underground area, except during any shift, unless an examination of such area as prescribed in this subsection has been made within eight hours immediately preceding his entrance into such area.

(e) At least once during each coal-producing shift, or more often if necessary for safety, each working section shall be examined for hazardous conditions by certified persons designated by the operator to do so. Any such condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such condition to a safe area, except those persons referred to in section 104(d) of this Act, until the danger is abated. Such examination shall include tests for methane with a means approved by the Secretary for detecting methane and for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary.

(f) In addition to the pre-shift and daily examinations required by this section, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where in enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. Such weekly examination need not be made during any week in which the mine is idle for the entire week, except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date and time at the places examined, and if any hazardous condition is found, such condition shall be reported to the operator promptly. Any hazardous condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such condition to a safe area, except those persons referred to in section 104(d) of this Act, until such danger is abated. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(g) At least once each week, a qualified person shall measure the volume of air entering the main intakes and leaving the main returns, the volume passing through the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume and, when the Secretary so prescribes, the velocity reaching each working face, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the coal mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(h)(1) At the start of each shift, tests for methane shall be made at each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If 1.0 volume per centum or more of methane is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until the air therein contains less than 1.0 volume per centum of methane. Examinations for methane shall be made during the operation of such equipment at intervals of not more than twenty minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting methane.

(2) If at any time the air at any working place, when tested at a point not less than twelve inches from the roof, face, or rib, contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in such mine so that such air shall contain less than 1.0 volume per centum of methane. While such changes or adjustments are underway and until they have been achieved, power to electric face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions shall be carried out under the direction of the operator or his agent so as not to endanger other areas of the mine. If at any time such air contains 1.5 volume per centum or more of methane, all persons, except those referred to in section 104(d) of this Act, shall be withdrawn from the area of the mine endangered thereby to a safe area, and all electric power shall be cut off from the endangered area of the mine, until the air in such working place shall contain less than 1.0 volume per centum of methane.

(i)(1) If, when tested, a split of air returning from any working section contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall contain less than 1.0 volume per centum of methane. Tests under this paragraph and paragraph (2) of this subsection shall be made at four-hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting methane.

(2) If, when tested, a split of air returning from any working section contains 1.5 volume per centum or more of methane, all persons, except those persons referred to in section 104(d) of this Act, shall be withdrawn from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area of the mine, until the air in such split shall contain less than 1.0 volume per centum of methane.

(3) In virgin territory, if the quantity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in subsection (b) of this section for the last open crosscut, if the air in the split returning from such workings does not pass over trolley wires or trolley feeder wires, and if a certified person designated by the operator is continually testing the methane content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons, except those referred to in section 104(d) of this Act, from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area only when the air returning from such workings contains 2.0 volume per centum or more of methane.

(j) Air which has passed by an opening of any abandoned area shall not be used to ventilate any working place in the coal mine if such air contains 0.25 volume per centum or more of methane. Examinations of such air shall be made during the pre-shift examination required by subsection (d) of this section. In making such tests, a certified person designated by the operator shall use means approved by the Secretary for detecting methane. For the purposes of this subsection, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

(k) Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any working place in a mine, except that such air, if it does not contain 0.25 volume per centum or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

(l) The Secretary or his authorized representative shall require, as an additional device for detecting concentrations of methane, that a methane monitor, approved as reliable by the Secretary after the operative date of this title, be installed, when available, on any electric face cutting equipment, continuous miner, longwall face equipment, and loading machine, except that no monitor shall be required to be installed on any such equipment prior to the date on which such equipment is required to be permissible under section 305(a) of this title. When installed on any such equipment, such monitor shall be kept operative and properly maintained and frequently tested as prescribed by the Secretary. The sensing device of such monitor shall be installed as close to the working face as practicable. Such

monitor shall be set to deenergize automatically such equipment when such monitor is not operating properly and to give a warning automatically when the concentration of methane reaches a maximum percentage determined by an authorized representative of the Secretary which shall not be more than 1.0 volume per centum of methane. An authorized representative of the Secretary shall require such monitor to deenergize automatically equipment on which it is installed when the concentration of methane reaches a maximum percentage determined by such representative which shall not be more than 2.0 volume per centum of methane.

(m) Idle and abandoned areas shall be inspected for methane and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible but not more than three hours before other persons are permitted to enter or work in such areas. Persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting methane and in the use of a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

(n) Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether methane is present. Such person shall use means approved by the Secretary for detecting methane. If in such examination methane is found in amounts of 1.0 volume per centum or more, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall contain less than 1.0 volume per centum of methane.

(o) A ventilation system and methane and dust control plan and revisions thereof suitable to the conditions and the mining system of the coal mine and approved by the Secretary shall be adopted by the operator and set out in printed form within ninety days after the operative date of this title. The plan shall show the type and location of mechanical ventilation equipment installed and operated in the mine, such additional or improved equipment as the Secretary may require, the quantity and velocity of air reaching each working face, and such other information as the Secretary may require. Such plan shall be reviewed by the operator and the Secretary at least every six months.

(p) Each operator shall provide for the proper maintenance and care of the permissible flame safety lamp or any other approved device for detecting methane and oxygen deficiency by a person trained in such maintenance, and, before each shift, care shall be taken to insure that such lamp or other device is in a permissible condition.

(q) Where areas are being pillared on the operative date of this title without bleeder entries, or without bleeder systems or an equivalent means, pillar recovery may be completed in the area, to the extent approved by an authorized representative of the Secretary, if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of methane.

(r) Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of nine months, may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on the operative date of this title.

(s) In all underground areas of a coal mine, immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for methane shall be made by a qualified person with means approved by the Secretary for detecting methane. If methane is found in amounts of 1.0 volume per centum or more, changes or adjustments shall be made at once in the ventilation so that the air shall contain less than 1.0 volume per centum of methane. No shots shall be fired until the air contains less than 1.0 volume per centum of methane.

(t) Each operator shall adopt a plan within sixty days after the operative date of this title which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (1) to withdraw all persons from the working sections, (2) to cut off the power in the mine in a timely manner, (3) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of 1.0 volume per centum or more exists therein, and (4) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

(u) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

(v) The mine foreman shall read and countersign promptly the daily reports of the pre-shift examiner and assistant mine foreman, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, they shall be corrected promptly. If such conditions create an imminent danger, the operator shall withdraw all persons from, or prevent any person from entering, as the case may be, the area affected by such conditions, except those persons referred to in section 104(d) of this Act, until such danger is abated. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

(w) Each day, the mine foreman and each of his assistants shall enter plainly and sign with ink or indelible pencil in a book approved by the Secretary provided for that purpose a report of the condition of the mine or portion thereof under his supervision, which report shall state clearly the location and nature of any hazardous condition observed by him or reported to him during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and shall be open for inspection by interested persons.

(x) Before a coal mine is reopened after having been abandoned or declared inactive by the operator, the Secretary shall be notified, and an inspection shall be made of the entire mine by an authorized representative of the Secretary before mining operations commence.

(y)(1) In any coal mine opened after the operative date of this title, the entries used as intake and return aircourses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to the operative date of this title which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to permit adequately the coursing of intake or return air through such entries, (1) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate, active working places, and (2) when the belt haulage entries are not necessary to ventilate the active working places, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane.

(2) In any coal mine opened on or after the operative date of this title, or, in the case of a coal mine opened prior to such date, in any new working section of such mine, where trolley haulage systems are maintained and where trolley wires or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake aircourses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

(z)(1) While pillars are being extracted in any area of a coal mine, such area shall be ventilated in the manner prescribed by this section.

(2) Within nine months after the operative date of this title, all areas from which pillars have been wholly or partially extracted and abandoned areas, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means, or be sealed, as determined by the Secretary or his authorized representative. When ventilation of such areas is required, such ventilation shall be maintained so as continuously to dilute, render harmless, and carry away methane and other explosive gases within such areas and to protect the active workings of the mine from the hazards of such methane and other explosive gases. Air coursed through underground areas from which pillars have been wholly or partially extracted which enters another split of air shall not contain more than 2.0 volume per centum of methane, when tested at the point it enters such other split. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine.

(3) In the case of mines opened on or after the operative date of this title, or in the case of working sections opened on or after such date in mines opened prior to such date, the mining system shall be designed in accordance with a plan and revisions thereof approved by the Secretary and adopted by such operator so that, as each working section of the mine is abandoned, it can be isolated from the active workings of the mine with explosion-proof seals or bulkheads.

COMBUSTIBLE MATERIALS AND ROCK DUSTING

SEC. 304. (a) Coal dust, including float coal dust deposited on rock-dusted surfaces,

loose coal, and other combustible materials, shall be cleaned up and not be permitted to accumulate in active workings, or on electric equipment therein.

(b) Where underground mining operations in active workings create or raise excessive amounts of dust, water or water with a wetting agent added to it, or other no less effective methods approved by the Secretary or his authorized representative, shall be used to abate such dust. In working places, particularly in distances less than forty feet from the face, water, with or without a wetting agent, or other no less effective methods approved by the Secretary or his authorized representative, shall be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard.

(c) All underground areas of a coal mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within forty feet of all working faces, unless such areas are inaccessible or unsafe to enter or unless the Secretary or his authorized representative permits an exception upon his finding that such exception will not pose a hazard to the miners. All crosscuts that are less than forty feet from a working face shall also be rock dusted.

(d) Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of an underground areas of a coal mine and maintained in such quantities that the incombustible content of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where methane is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of methane where 65 and 80 per centum, respectively, of incombustibles are required.

(e) Subsections (b) through (d) of this section shall not apply to underground anthracite mines.

ELECTRICAL EQUIPMENT—GENERAL

SEC. 305. (a)(1) Effective one year after the operative date of this title—

(A) all junction or distribution boxes used for making multiple power connections inby the last open crosscut shall be permissible;

(B) all handheld electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment as the Secretary may designate within two months after the operative date of this title which are taken into or used inby the last open crosscut of any coal mine shall be permissible;

(C) all electric face equipment which is taken into or used inby the last open crosscut of any coal mine classified under any provision of law as gassy prior to the operative date of this title shall be permissible; and

(D) all other electric face equipment which is taken into or used inby the last crosscut of any coal mine, except a coal mine referred to in paragraph (2) of this subsection, which has not been classified under any provision of law as a gassy mine prior to the operative date of this title shall be permissible.

(2) Effective four years after the operative date of this title, all electric face equipment, other than equipment referred to in paragraph (1)(B) of this subsection, which is taken into or used inby the last open crosscut of any coal mine which is operated entirely in coal seams located above the watertable and which has not been classified under any provision of law as a gassy mine prior to the operative date of this title and in which one or more openings were made prior to the date of enactment of this Act shall be permissible, except that any operator of such mine who is unable to comply with the provisions of this paragraph on such effective date may file with the Panel an application for a permit for noncompliance ninety days prior to such date. If the Panel determines, after notice to all interested persons and an opportunity for a public hearing under section 5 of this Act, that such application satisfies the provisions of paragraph (10) of this subsection and that such operator, despite his diligent efforts, will be unable to comply with such provisions, the Panel may issue to such operator such a permit. Such permit shall entitle the permittee to an additional extension of time to comply with the provisions of this paragraph of not to exceed twenty-four months, as determined by the Panel, from such effective date.

(3) The operator of each coal mine shall maintain in permissible condition all electric face equipment required by this subsection to be permissible which is taken into or used inby the last open crosscut of any such mine.

(4) Each operator of a coal mine shall, within two months after the operative date of this title, file with the Secretary a statement listing all electric face equipment by type and manufacturer being used by such operator in connection with mining operations in such mine as of the date of such filing, and stating whether such equipment is permissible and maintained in permissible condition or is nonpermissible on such date of filing, and, if nonpermissible, whether such nonpermissible equipment has ever been rated as permissible, and such other information as the Secretary may require.

(5) The Secretary shall promptly conduct a survey as to the total availability of new or rebuilt permissible electric face equipment and replacement parts for such equipment and, within six months after the operative date of this title, publish the results of such survey.

(6) Any operator of a coal mine who is unable to comply with the provisions of paragraph (1)(D) of this subsection within one year after the operative date of this title may file with the Panel an application for a permit for noncompliance. If the Panel determines that such application satisfies the provisions of paragraph (10) of this subsection, the Panel shall issue to such operator a permit for noncompliance. Such permit shall entitle the permittee to an extension of time to comply with such provisions of paragraph (1)(D) of not to exceed twelve months, as determined by the Panel, from the date that compliance with the provisions of paragraph (1)(D) of this subsection is required.

(7) Any operator of a coal mine issued a permit under paragraph (6) of this subsection who, ninety days prior to the termination of such permit, or renewal thereof, determines that he will be unable to comply with the provisions of paragraph (1)(D) of this subsection upon the expiration of such permit may file with the Panel an application for renewal thereof. Upon receipt of such application, the Panel, if it determines, after notice to all interested persons and an opportunity for a public hearing under section 5 of this Act, that such application satisfies the provisions of paragraph (10) of this subsection and that such operator, despite his diligent efforts, will be unable to comply with the provisions of paragraph (1)(D), may renew the permit for a period not exceeding twelve months.

(8) Any permit or renewal thereof issued pursuant to this subsection shall entitle the permittee to use such nonpermissible electric face equipment specified in the permit during the term of such permit.

(9) Permits for noncompliance issued under paragraphs (6) or (7) of this subsection shall, in the aggregate, not extend the period of noncompliance more than forty-eight months after the date of enactment of this Act.

(10) Any application for a permit of noncompliance filed under this subsection shall contain a statement by the operator—

(A) that he is unable to comply with paragraph (1)(D) or paragraph (2) of this subsection, as appropriate, within the time prescribed;

(B) listing the nonpermissible electric face equipment being used by such operator in connection with mining operations in such mine on the operative date of this title and the date of the application by type and manufacturer for which a noncompliance permit is requested and whether such equipment had ever been rated as permissible;

(C) setting forth the actions taken from and after the operative date of this title to comply with paragraph (1)(D) or paragraph (2) of this subsection, as appropriate, together with a plan setting forth a schedule of compliance with said paragraphs for each such equipment referred to in such paragraphs and being used by the operator in connection with mining operations in such mine with respect to which such permit is requested and the means and measures to be employed to achieve compliance; and

(D) including such other information as the Panel may require.

(11) No permit for noncompliance shall be issued under this subsection for any nonpermissible electric face equipment, unless such equipment was being used by an operator in connection with the mining operations in a coal mine on the operative date of this title.

(12) Effective one year after the operative date of this title, all replacement equipment acquired for use in any mine referred to in this subsection shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use one year from the operative date of this title such equipment shall be put in, and thereafter maintained in, a permissible condition, unless, in the opinion of the Secretary, such equipment or necessary replacement parts are not available.

(b) A copy of any permit granted under this section shall be mailed immediately to a representative of the miners of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine.

(c) Any coal mine which, prior to the operative date of this title, was classed gassy under any provision of law and was required to use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

(d) All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

(e) The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system, including permanent cables, switchgear, rectifying substations, transformers, permanent pumps and trolley wires and trolley feeder wires, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

(f) All power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for trouble shooting or testing. In addition, energized trolley wires may be repaired only by a person trained to perform electrical work and to maintain electrical equipment and the operator of such mine

shall require that such person wear approved and tested insulated shoes and wireman's gloves. No electrical work shall be performed on low-, medium-, or high-voltage distribution circuits or equipment, except by a qualified person or by a person trained to perform electrical work and to maintain electrical equipment under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who performed such work, except that, in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons. Locks or tags shall be removed only by the persons who installed them or, if such persons are unavailable, by persons authorized by the operator or his agent.

(g) All electric equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the Secretary and to the miners in such mine.

(h) All electric conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that a rise in temperature resulting from normal operation will not damage the insulating materials.

(i) All electrical connections or splices in conductors shall be mechanically and electrically efficient, and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

(j) Cables shall enter metal frames of motors, splice boxes, and electric compartments only through proper fittings. When insulated wires other than cables pass through metal frames the holes shall be substantially bushed with insulated bushings.

(k) All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-insulated insulators and shall not contact combustible material, roof, or ribs.

(l) Power wires and cables, except trolley wires, trolley feeder wires, and bare signal wires, shall be insulated adequately and fully protected.

(m) Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

(n) In all main power circuits, disconnecting switches shall be installed underground within five hundred feet of the bottoms of shafts and boreholes through which main power circuits enter the underground area of the mine and within five hundred feet of all other places where main power circuits enter the underground area of the mine.

(o) All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

(p) Each ungrounded, exposed power conductor that leads underground shall be equipped with suitable lightning arresters of approved type within one hundred feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than twenty-five feet.

(q) No device for the purpose of lighting any coal mine which has not been approved by the Secretary or his authorized representative shall be permitted in such mine.

(r) An authorized representative of the Secretary may require in any mine that electric face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

TRAILING CABLES

SEC. 306. (a) Trailing cables used in coal mines shall meet the requirements established by the Secretary for flame-resistant cables.

(b) Short-circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device approved by the Secretary of adequate current-interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(d) One temporary splice may be made in any trailing cable. Such trailing cable may only be used for the next twenty-four hour period. No temporary splice shall be made in a training cable within twenty-five feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this subsection, the term "splice" means the mechanical joining of one or more conductors that have been severed.

(e) When permanent splices in trailing cables are made, they shall be—

(1) mechanically strong with adequate electrical conductivity and flexibility;

(2) effectively insulated and sealed so as to exclude moisture; and

(3) vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(f) Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. Trailing cables shall be adequately protected to prevent damage by mobile equipment.

(g) Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

GROUNDING

SEC. 307. (a) All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded by methods approved by an authorized representative of the Secretary. Metallic frames, casings, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded by methods approved by an authorized representative of the Secretary. Methods other than grounding which provide no less effective protection may be permitted by the Secretary or his authorized representative.

(b) The frames of all offtrack direct current machines and the enclosures of related detached components shall be effectively grounded, or otherwise maintained at no less safe voltages, by methods approved by an authorized representative of the Secretary.

(c) The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

(d) High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to, a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs, to be prescribed by the Secretary prior to the operative date of this title.

(e) When not in use, power circuits underground shall be deenergized on idle days and idle shifts, except that rectifiers and transformers may remain energized.

UNDERGROUND HIGH-VOLTAGE DISTRIBUTION

SEC. 308. (a) High-voltage circuits entering the underground area of any coal mine shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

(b) High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length and upon his finding that such exception does not pose a hazard to the miners. Within one hundred feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

(c) The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(d) Six months after the operative date of this title, high-voltage, resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of twelve months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available.

(e)(1) Underground high-voltage cables used in resistance grounded systems shall be

equipped with metallic shields around each power conductor, with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit.

(2) All such cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

(f) Couplers that are used with medium-voltage or high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, no less effective couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(g) Single-phase loads, such as transformer primaries, shall be connected phase to phase.

(h) All underground high-voltage transmission cables shall be installed only in regularly inspected aircourses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley wires and other low-voltage circuits.

(i) Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such a manner that it can be determined by visual observation that the circuit is deenergized when the switches are open.

(j) Circuit breakers and disconnecting switches underground shall be marked for identification.

(k) In the case of high-voltage cables used as trailing cables, temporary splices shall not be used and all permanent splices shall be made in accordance with section 306(e) of this title. Terminations and splices in all other high-voltage cables shall be made in accordance with the manufacturer's specifications.

(l) Frames, supporting structures, and enclosures of stationary, portable, or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment receiving power from resistance grounded systems shall be effectively grounded to the high-voltage ground.

(m) Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the Secretary may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the Secretary and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that, when such centers and transformers are moved while energized as permitted under this subsection, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

UNDERGROUND LOW- AND MEDIUM-VOLTAGE ALTERNATING CURRENT CIRCUITS

SEC. 309. (a) Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and over-current.

(b) Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(c) Six months after the operative date of this title, low- and medium-voltage resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of twelve months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Cable couplers shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(d) Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected. Trailing cables for mobile equipment shall contain one or more ground conductors having a cross sectional area of not less than one-half the power conductor, and, six months after the operative date of this title, an insulated conductor for the ground continuity check circuit or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of twelve months may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Splices made in the cables shall provide continuity of all components.

(e) Single phase loads shall be connected phase to phase.

(f) Circuit breakers shall be marked for identification.

(g) Trailing cables for medium voltage circuits shall include grounding conductors, a ground check conductor, and ground metallic shields around each power conductor or a grounded metallic shield over the assembly, except that on equipment employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

TROLLEY WIRES AND TROLLEY FEEDER WIRES

SEC. 310. (a) Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

(b) Trolley wires and trolley feeder wires shall be provided with over-current protection.

(c) Trolley wires and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

(d) Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately (1) at all points where men are required to work or pass regularly under the wires; (2) on both sides of all doors and stoppings; and (3) at man-trip stations. The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

FIRE PROTECTION

SEC. 311. (a) Each coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The Secretary shall establish minimum requirements for the type, quality, and quantity of such equipment, and the interpretations of the Secretary or the Director of the Bureau of Mines relating to such equipment in effect on the operative date of this title shall continue in effect until modified or superseded by the Secretary. After every blasting operation, an examination shall be made to determine whether fires have been started.

(b) Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in all underground areas in a coal mine shall be in fireproof, closed metal containers or other no less effective containers approved by the Secretary.

(c) Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

(d) All welding, cutting, or soldering with arc or flame in all underground areas of a coal mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall, immediately before and during such operations, continuously test for methane with means approved by the Secretary for detecting methane. Welding, cutting, or soldering shall not be conducted in air that contains 1.0 volume per centum or more of methane. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

(e) Within one year after the operative date of this title, fire suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the

Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire suppression devices meeting specifications prescribed by the Secretary are installed on such equipment.

(f) Deluge-type water sprays of foam generators automatically actuated by rise in temperature, or other no less effective means approved by the Secretary of controlling fire, shall be installed at main and secondary belt-conveyor drives. Where sprays or foam generators are used they shall supply a sufficient quantity of water or foam to control fires.

(g) Underground belt conveyors shall be equipped with slippage and sequence switches. The Secretary shall, within sixty days after the operative date of this title, require that devices be installed on all such belts which will give a warning automatically when a fire occurs on or near such belt. The Secretary shall prescribe a schedule for installing fire suppression devices on belt haulageways.

(h) On and after the operative date of this title, all conveyor belts acquired for use underground shall meet the requirements to be established by the Secretary for flame-resistant conveyor belts.

MAPS

SEC. 312. (a) The operator of a coal mine shall have in a fireproof repository located in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on scale. Such map shall show the active workings, all pillared, worked out, and abandoned areas, except as provided in this section, entries and aircourses with the direction of airflow indicated by arrows, contour lines of all elevations, elevations of all main and cross or side entries, dip of the coalbed, escapeways, adjacent mine workings within one thousand feet, mines above or below, water pools above, and either producing or abandoned oil and gas wells located within five hundred feet of such mine and any underground area of such mine, and such other information as the Secretary may require. Such map shall identify those areas of the mine which have been pillared, worked out, or abandoned which are inaccessible or cannot be entered safely and on which no information is available. Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located. Such map shall be kept up to date by temporary notations and such map shall be revised and supplemented at intervals prescribed by the Secretary on the basis of a survey made or certified by such engineer or surveyor.

(b) The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his authorized representative, by coal mine inspectors of the State in which the mine is located, by miners in the mine and their representatives and by operators of adjacent coal mines and by persons owning, leasing, or residing on surface areas of such mines or areas adjacent to such mines. The operator shall furnish to the Secretary or his authorized representative and to the Secretary of Housing and Urban Development, upon request, one or more copies of such map and any revision and supplement thereof. Such map or revision and supplement thereof shall be kept confidential and its contents shall not be divulged to any other person, except to the extent necessary to carry out the provisions of this Act and in connection with the functions and responsibilities of the Secretary of Housing and Urban Development.

(c) Whenever an operator permanently closes or abandons a coal mine, or temporarily closes a coal mine for a period of more than ninety days, he shall promptly notify the Secretary of such closure. Within sixty days of the permanent closure or abandonment of the mine, or, when the mine is temporarily closed, upon the expiration of a period of ninety days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

BLASTING AND EXPLOSIVES

SEC. 313. (a) Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other unconfined shots shall not be fired underground.

(b) Explosives and detonators shall be kept in separate containers until immediately before blasting. In underground anthracite mines, (1) mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when methane or a fire hazard is not present, and if it is otherwise impracticable to start the battery; (2) open, unconfined shake shots in pitching veins may be fired, when no methane or fire hazard is present, if the taking down of loose hanging coal by other means is too hazardous; and (3) tests for methane shall be made immediately before such shots are fired and if 1.0 volume per centum or more of methane is present, when tested, such shot shall be made until the methane content is reduced below 1.0 volume per centum.

(c) Except as provided in this subsection, in all underground areas of a coal mine only permissible explosives, electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than twenty shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. Nothing in this section shall prohibit the use of compressed air blasting.

(d) Explosives or detonators carried anywhere underground in a coal mine by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

(e) Explosives or detonators shall be transported in special closed containers (1) in cars moved by means of a locomotive or rope, (2) on belts, (3) in shuttle cars, or (4) in equipment designed especially to transport such explosives or detonators.

(f) When supplies of explosives and detonators for use in one or more working sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least twenty-five feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except in pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

(g) Explosives and detonators stored in the working places shall be kept in separate closed containers which shall be located out of the line of blast and not less than fifty feet from the working face and fifteen feet from and pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least five feet. Such explosives and detonators, when stored, shall be separated by a distance of at least five feet.

HOISTING AND MANTRIPS

SEC. 314. (a) Every hoist used to transport persons at a coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist handling platforms, cages, or other devices used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device; with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device; and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the Secretary that act quickly and effectively in an emergency, and such catches shall be tested at least once every two months. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are transported into, or out of, a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

(b) Other safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

(c) Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

(d) There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

(e) Each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, where space permits. Where space does not permit automatic brakes, locomotives and haulage cars shall be subject to speed reduction gear, or other similar devices approved by the Secretary which are designed to stop the locomotives and haulage cars with the proper margin of safety.

(f) All haulage equipment acquired by an operator of a coal mine on or after one year after the operative date of this title shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on the operative date of this title shall also be so equipped within four years after the operative date of this title.

EMERGENCY SHELTERS

SEC. 315. The Secretary or an authorized representative of the Secretary may prescribe in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which persons may go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the persons while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers and the training of the miners in their proper use shall be submitted by the operator to the Secretary for his approval.

COMMUNICATIONS

SEC. 316. Telephone service or equivalent two-way communication facilities, approved by the Secretary or his authorized representative, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section of any coal mine that is more than one hundred feet from a portal.

MISCELLANEOUS

SEC. 317. (a) Each operator of a coal mine shall take reasonable measures to locate oil

and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than three hundred feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

(b) Whenever any working place approaches within fifty feet of abandoned areas in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within two hundred feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty feet in advance of the working face of such working place and shall be continually maintained to a distance of at least ten feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than eight feet apart in the rib of such working place to a distance of at least twenty feet and at an angle of forty-five degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of miners in such place.

(c) No person shall smoke, carry smoking materials, matches, or lighters underground, or smoke in or around oil houses, explosives, magazines, or other surface areas where such practice may cause a fire or explosion. The operator shall institute a program, approved by the Secretary, to insure that any person entering the underground area of the mine does not carry smoking materials, matches, or lighters.

(d) Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in the underground area of any coal mine, except as permitted under section 311(d) of this title.

(e) Within nine months after the operative date of this title, the Secretary shall propose the standards under which all working places in a mine shall be illuminated by permissible lighting, within eighteen months after the promulgation of such standards, while persons are working in such places.

(f) (1) Except as provided in paragraphs (2) and (3) of this subsection, at least two separate and distinct travelable passageways which are maintained to insure passage at all times of any person, including disabled persons, and which are to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each working section continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground area of the mine of surface fires, fumes, smoke, and flood water. Escape facilities approved by the Secretary or his authorized representative, properly maintained and frequently tested, shall be present at or in each escape shaft or slope to allow all persons, including disabled persons, to escape quickly to the surface in the event of an emergency.

(2) When new coal mines are opened, not more than twenty miners shall be allowed at any one time in any mine until a connection has been made between the two mine openings, and such connections shall be made as soon as possible.

(3) When only one mine opening is available, owing to final mining of pillars, not more than twenty miners shall be allowed in such a mine at any one time, and the distance between the mine opening and working face shall not excede five hundred feet.

(4) In the case of all coal mines opened on or after the operative date of this title, and in the case of all new working sections opened on or after such date in mines opened prior to such date, the escapeway required by this section to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be extended for a greater or lesser distance so long as such extension does not pose a hazard to the miners.

(g) After the operative date of this title, all structures erected on the surface within one hundred feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date which are located within one hundred feet of any mine opening are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering miners underground. These doors shall be tested at least monthly to insure effective operation. A record of such tests shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard and shall be available for inspection by interested persons.

(h) Adequate measures shall be taken to prevent methane and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall methane be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for methane by the Secretary within one year after the operative date of this title. Where coal is dumped at or near air-intake openings, provisions shall be made to avoid dust from entering the mine.

(i) Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining of both qualified and certified persons needed to carry out functions prescribed in this Act.

(j) An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies or cabs to protect the miners operating such equipment from roof falls and from rib and face rolls.

(k) On and after the operative date of this title, the opening of any coal mine that is declared inactive by its operator or is permanently closed or abandoned for more than ninety days, shall be sealed by the operator in a manner prescribed by the Secretary. Openings of all other mines shall be adequately protected in a manner prescribed by the Secretary to prevent entrance by unauthorized persons.

(l) The Secretary may require any operator to provide adequate facilities for the miners to change from the clothes worn underground, to provide for the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active workings of the mine when such surface facilities are not readily accessible to the active workings.

(m) Each operator shall make arrangements in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first aid and first aid training shall be made available to all miners. Each coal mine shall have an adequate supply of first aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements of this subsection, the operator shall meet at least minimum requirements prescribed by the Secretary of Health, Education, and Welfare. Within two months after the operative date of this title, each operator shall file with the Secretary a plan setting forth in such detail as the Secretary may require the manner in which such operator has fulfilled the requirements in this subsection.

(n) A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for one hour or longer. Each operator shall train each miner in the use of such device.

(o) The Secretary shall prescribe improved methods of assuring that miners are not exposed to atmospheres that are deficient in oxygen.

(p) Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground, and will provide an accurate record of the persons in the mine kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than sixteen gauge.

(q) The Secretary shall require, when technologically feasible, that devices to prevent and suppress ignitions be installed on electric face cutting equipment.

(r) Whenever an operator mines coal from a coal mine opened after the operative date of this title, or from any new working section of a mine opened prior to such date, in a manner that requires the construction, operation, and maintenance of tunnels under any river, stream, lake, or other body of water, that is, in the judgment of the Secretary, sufficiently large to constitute a hazard to miners, such operator shall obtain a permit from the Secretary which shall include such terms and conditions as he deems appropriate to protect the safety of miners working or passing through such tunnels from cave-ins and other hazards. Such permits shall require, in accordance with a plan to be approved by the Secretary, that a safety zone be established beneath and adjacent to such body of water. No plan shall be approved unless there is a minimum of cover to be determined by the Secretary, based on test holes drilled by the operator in a manner to be prescribed by the Secretary. No such permit shall be required in the case of any new working section of a mine which is located under any water resource reservoir being constructed by a Federal agency on the date of enactment of this Act, the operator of which is required by such agency to operate in a manner that adequately protects the safety of miners working in such section from cave-ins and other hazards.

(s) An adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine, and such water shall be carried, stored, and otherwise protected in sanitary containers.

(t) Within one year after the operative date of this title, the Secretary shall propose standards for preventing explosions from explosive gases other than methane and for testing for accumulations of such gases.

DEFINITIONS

SEC. 318. For the purpose of this title and title II of this Act, the term—

(a) "certified" or "registered" as applied to any person means a person certified or registered by the State in which the coal mine is located to perform duties prescribed by such titles, except that, in a State where no program of certification or registration is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certification or registration shall be by the Secretary;

(b) "qualified person" means, as the context requires,

(1) an individual deemed qualified by the Secretary and designated by the operator to make tests and examinations required by this Act; and

(2) an individual deemed, in accordance with minimum requirements to be be established by the Secretary, qualified by training, education, and experience, to perform electrical work, to maintain electrical equipment, and to conduct examinations and tests of all electrical equipment;

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment, other than permissible electric face equipment, to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire,

(2) explosives, shot firing units, or blasting devices used in such mine, means explosives, shot firing units, or blasting devices which meet specifications which are prescribed by the Secretary, and

(3) the manner of use of equipment or explosives, shot firing units, and blasting devices, means the manner of use prescribed by the Secretary;

(d) "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, adobe, or other inert material, preferably light colored, 100 per centum of which will pass through a sieve having twenty meshes per linear inch and 70 per centum or more of which will pass through a sieve having two hundred meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or more than a total of 4 per centum of free and combined silica (SiO_2), or, where the Secretary finds that such silica concentrations are not available, which does not contain more than 5 per centum of free and combined silica;

(e) "anthracite" means coals with a volatile ratio equal to 0.12 or less;

(f) "volatile ratio" means volatile matter content divided by the volatile matter plus the fixed carbon;

(g) (1) "working face" means any place in a coal mine in which work of extracting coal from its natural deposit in the earth is performed during the mining cycle,

(2) "working place" means the area of a coal mine inby the last open crosscut,

(3) "working section" means all areas of the coal mine from the loading point of the section to and including the working faces,

(4) "active workings" means any place in a coal mine where miners are normally required to work or travel;

(h) "abandoned areas" means sections, panels, and other areas that are not ventilated and examined in the manner required for working places under section 303 of this title;

(i) "permissible" as applied to electric face equipment means all electrically operated equipment taken into or used inby the last open crosscut of an entry or a room of any coal mine the electrical parts of which, including, but not limited to, associated electrical equipment, components, and accessories, are designed, constructed, and installed, in accordance with the specifications of the Secretary, to assure that such equipment will not cause a mine explosion or mine fire, and the other features of which are designed and constructed, in accordance with the specifications of the Secretary, to prevent, to the greatest extent possible, other accidents in the use of such equipment; and the regulations of the Secretary or the Director of the Bureau of Mines in effect on the operative date of this title relating to the requirements for investigation, testing, approval, certification, and acceptance of such equipment as permissible shall continue in effect until modified or superseded by the Secretary, except that the Secretary shall provide procedures, including, where feasible, testing, approval, certification, and acceptance in the field by an authorized representative of the Secretary, to facilitate compliance by an operator with the requirements of section 305(a) of this title within the periods prescribed therein;

(j) "low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "high voltage" means more than 1,000 volts;

(k) "respirable dust" means only dust particulates 5 microns or less in size; and

(l) "coal mine" includes areas of adjoining mines connected underground.

TITLE IV—BLACK LUNG BENEFITS

PART A—GENERAL

SEC. 401. Congress finds and declares that there are a significant number of coal miners living today who are totally disabled due to pneumoconiosis arising out of employment in one or more of the Nation's underground coal mines; that there are a number of survivors of coal miners whose deaths were due to this disease; and that few States provide benefits for death or disability due to this disease to coal miners or their surviving dependents. It is, therefore, the purpose of this title to provide benefits, in cooperation with the States, to coal miners who are totally disabled due to pneumoconiosis and to the surviving dependents of miners whose death was due to such disease; and to ensure that in the future adequate benefits are provided to coal miners and their dependents in the event of their death or total disabiilty due to pneumoconiosis.

SEC. 402. For purposes of this title—

(a) The term "dependent" means a wife or child who is a dependent as that term is defined for purposes of section 8110 of title 5, United States Code.

(b) The term "pneumoconiosis" means a chronic dust disease of the lung arising out of employment in an underground coal mine.

(c) The term "Secretary" where used in part B means the Secretary of Heatlh, Education, and Welfare, and where used in part C means the Secretary of Labor.

(d) The term "miner" means any individual who is or was employed in an underground coal mine.

(e) The term "widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion, who has not remarried.

(f) The term "total disability" has the meaning given it by regulations of the Secretary of Health, Education, and Welfare, but such regulations shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act.

PART B—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, 1972

SEC. 411. (a) The Secretary shall, in accordance with the provisions of this part, and the regulations promulgated by him under this part, make payments of benefits in respect to total disability of any miner due to pneumoconiosis, and in respect of the death of any miner whose death was due to pneumoconiosis.

(b) The Secretary shall by regulation prescribe standards for determining for purposes of section 411(a) whether a miner is totally disabled due to pneumoconiosis and for determining whether the death of a miner was due to pneumoconiosis. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of this title, and in no event later than the end of the third month following the month in which this title is enacted. Such regulations may be modified or additional regulations promulated from time to time thereafter.

(c) For purposes of this section—

(1) if a miner who is suffering or suffered from pneumoconiosis was employed for ten years or more in one or more underground coal mines there shall be a rebuttable presumption that his pneumoconiosis arose out of such employment;

(2) if a deceased miner was employed for ten years or more in underground coal mines and died from a respirable disease, there shall be a rebuttable presumption that his death was due to pneumoconiosis; and

(3) if a miner is suffering or suffered from a chronic dust disease of the lung which (A) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (C) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (A) or (B) if diagnosis had been made in the manner prescribed in clause (A) or (B), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(d) Nothing in subsection (c) shall be deemed to affect the applicability of subsection (a) in the case of a claim where the presumptions provided for therein are inapplicable.

SEC. 412. (a) Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

(1) In the case of total disability of a miner due to pneumoconiosis, the disabled miner shall be paid benefits during the disability at a rate equal to 50 per centum of the minimum monthly payment to which a Federal employee in grade GS–2, who is totally disabled, is entitled at the time of payment under chapter 81 of title 5, United States Code.

(2) In the case of death of a miner due to pneumoconiosis or of a miner receiving benefits under this part, benefits shall be paid to his widow (if any) at the rate the deceased miner would receive such benefits if he were totally disabled.

(3) In the case of an individual entitled to benefit payments under clause (1) or (2) of this subsection who has one or more dependents, the benefit payments shall be increased at the rate of 50 per centum of such benefit payments, if such individual has one dependent, 75 per centum if such individual has two dependents, and 100 per centum if such individual has three or more dependents.

(b) Notwithstanding subsection (a), benefit payments under this section to a miner or his widow shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such miner

or his widow under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such miner, and the amount by which such payment would be reduced on account of excess earnings of such miner under section 203 (b) through (l) of the Social Security Act if the amount paid were a benefit payable under section 202 of such Act.

(c) Benefits payable under this part shall be deemed not to be income for purposes of the Internal Revenue Code of 1954.

SEC. 413. (a) Except as otherwise provided in section 414 of this part, no payment of benefits shall be made under this part except pursuant to a claim filed therefor on or before December 31, 1972, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

(b) In carrying out the provisions of this part, the Secretary shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the personnel and procedures he uses in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act. Claimants under this part shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this part, the provisions of subsections (a), (b), (c), (d), and (g) of section 221 of such Act shall be applicable.

(c) No claim for benefits under this section shall be considered unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for benefits under this section; except that the foregoing provisions of this paragraph shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because pneumoconiosis is not compensable under such law, or in any other situation in which, in the opinion of the Secretary, the filing of a claim would clearly be futile.

SEC. 414. (a) No claim for benefits under this part on account of total disability of a miner shall be considered unless it is filed on or before December 31, 1972, or, in the case of a claimant who is a widow, within six months after the death of her husband or by December 31, 1972, whichever is the later.

(b) No benefits shall be paid under this part after December 31, 1972, if the claim therefor was filed after December 31, 1971.

(c) No benefits under this part shall be payable for any period prior to the date a claim therefor is filed.

(d) No benefits shall be paid under this part to the residents of any State which, after the date of enactment of this Act, reduces the benefits payable to persons eligible to receive benefits under this part, under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, or disability insurance.

(e) No benefits shall be payable to a widow under this part on account of the death of a miner unless (1) benefits under this part were being paid to such miner with respect to disability due to pneumoconiosis prior to his death, or (2) the death of such miner occurred prior to January 1, 1973.

PART C—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1972

SEC. 421. (a) On and after January 1, 1973, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis they shall be entitled to claim benefits under this part.

(b) (1) For purposes of this section, a State workmen's compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in the list of State laws found by the Secretary to provide such adequate coverage during such period. The Secretary shall, no later than October 1, 1972, publish in the Federal Register a list of State workmen's compensation laws which provide adequate coverage for pneumoconiosis and shall revise and republish in the Federal Register such list from time to time, as may be appropriate to reflect changes in such State laws due to legislation or judicial or administrative interpretation.

(2) The Secretary shall include a State workmen's compensation law on such list during any period only if he finds that during such period under such law—

(A) benefits must be paid for total disability or death of a miner due to pneumoconiosis;

(B) the amount of such cash benefits is substantially equivalent to or greater than the amount of benefits prescribed by section 412(a) of this title;

(C) the standards for determining death or total disability due to pneumoconiosis are substantially equivalent to those established by section 411, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder;

(D) any claim for benefits on account of total disability or death of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years of the discovery of total disability due to pneumoconiosis, or the date of such death, as the case may be;

(E) there are in effect provisions with respect to prior and successor operators which are substantially equivalent to the provisions contained in section 422(i) of this part; and

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended, which are applicable under section 422(a), but are not inconsistent with any of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated by him, determines to be necessary or appropriate to assure adequate compensation for total disability or death due to pneumoconiosis.

The action of the Secretary in including or failing to include any State workmen's compensation law on such list shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

SEC. 422. (a) During any period after December 31, 1972, in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b) of this part, the provisions of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended (other than the provisions contained in sections 1, 2, 3, 4, 7, 8, 9, 10, 12, 13, 29, 30, 31, 32, 33, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50, and 51 thereof) shall (except as otherwise provided in this subsection and except as the Secretary shall by regulation otherwise provide), be applicable to each operator of an underground coal mine in such State with respect to death or total disability due to pneumoconiosis arising out of employment in such mine. In administering this part, the Secretary is authorized to prescribe in the Federal Register such additional provisions, not inconsistent with those specifically excluded by this subsection, as he deems necessary to provide for the payment of benefits by such operator to persons entitled thereto as provided in this part and thereafter those provisions shall be applicable to such operator.

(b) During any such period each such operator shall be liable for and shall secure the payment of benefits, as provided in this section and section 423 of this part.

(c) Benefits shall be paid during such period by each such operator under this section to the categories of persons entitled to benefits under section 412(a) of this title in accordance with the regulations of the Secretary and the Secretary of Health, Education, and Welfare applicable under this section: *Provided*, That, except as provided in subsection (i) of this section, no benefits shall be payable by any operator on account of death or total disability due to pneumoconiosis which did not arise, at least in part, out of employment in a mine during the period when it was operated by such operator.

(d) Benefits payable under this section shall be paid on a monthly basis and, except as otherwise provided in this section, such payments shall be equal to the amounts specified in section 412(a) of this title.

(e) No payment of benefits shall be required under this section:

(1) except pursuant to a claim filed therefor in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe;

(2) for any period prior to January 1, 1973; or

(3) for any period after seven years after the date of enactment of this Act.

(f) Any claim for benefits under this section shall be filed within three years of the discovery of total disability due to pneumoconiosis or, in the case of death due to pneumoconiosis, the date of such death.

(g) The amount of benefits payable under this section shall be reduced, on a monthly or other appropriate basis, by the amount of any compensation received under or pursuant to any Federal or State workmen's compensation law because of death or disability due to pneumoconiosis.

(h) The regulations of the Secretary of Health, Education, and Welfare promulgated under section 411 of this title shall also be applicable to claims under this section. The Secretary of Labor shall by regulation establish standards, which may include appropriate presumptions, for determining whether pneumoconiosis arose out of employment in a particular underground coal mine or mines. The Secretary may also, by regulation, establish standards for apportioning liability for benefits under this subsection among more than one operator, where such apportionment is appropriate.

(i) (1) During any period in which this section is applicable with respect to a coal mine an operator of such mine who, after the date of enactment of this title, acquired such mine or substantially all the assets thereof from a person (hereinafter referred to in this paragraph as a "prior operator") who was an operator of such mine on or after the operative date of this title shall be liable for and shall, in accordance with section 423 of this part, secure the payment of all benefits which would have been payable by the prior operator under this section with respect to miners previously employed in such mine if the acquisition had not occurred and the prior operator had continued to operate such mine.

(2) Nothing in this subsection shall relieve any prior operator of any liability under this section.

SEC. 423. (a) During any period in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b) each operator of an underground coal mine in such State shall secure the payment of benefits for which he is liable under section 422 by (1)

qualifying as a self-insurer in accordance with regulations prescribed by the Secretary, or (2) insuring and keeping insured the payment of such benefits with any stock company or mutual company or association, or with any other person or fund, including any State fund, while such company, association, person or fund is authorized under the laws of any State to insure workmen's compensation.

(b) In order to meet the requirements of clause (2) of subsection (a) of this section, every policy or contract of insurance must contain—

(1) a provision to pay benefits required under section 422, notwithstanding the provisions of the State workmen's compensation law which may provide for lesser payments;

(2) a provision that insolvency or bankruptcy of the operator or discharge therein (or both) shall not relieve the carrier from liability for such payments; and

(3) such other provisions as the Secretary, by regulation, may require.

(c) No policy or contract of insurance issued by a carrier to comply with the requirements of clause (2) of subsection (a) of this subsection shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the operator at his last known place of business.

SEC. 424. If a totally disabled miner or a widow is entitled to benefits under section 422 and (1) an operator liable for such benefits has not obtained a policy or contract of insurance, or qualified as a self-insurer, as required by section 423, or such operator has not paid such benefits within a reasonable time, or (2) there is no operator who was required to secure the payment of such benefits, the Secretary shall pay such miner or such widow the benefits to which he or she is so entitled. In a case referred to in clause (1), the operator shall be liable to the United States in a civil action in an amount equal to the amount paid to such miner or his widow under this title.

SEC. 425. With the consent and cooperation of State agencies charged with administration of State workmen's compensation laws, the Secretary may, for the purpose of carrying out his functions and duties under section 422, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may advance funds to or reimburse such State and local agencies and their employees for services rendered for such purposes.

SEC. 426. (a) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to issue such regulations as each deems appropriate to carry out the provisions of this title. Such regulations shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding subsection (a) thereof.

(b) Within 120 days following the convening of each session of Congress the Secretary of Health, Education, and Welfare shall submit to the Congress an annual report upon the subject matter of part B of this title, and, after January 1, 1973, the Secretary of Labor shall also submit such a report upon the subject matter of part C of this title.

(c) Nothing in this title shall relieve any operator of the duty to comply with any State workmen's compensation law, except insofar as such State law is in conflict with the provisions of this title and the Secretary by regulation, so prescribes. The provisions of any State workmen's compensation law which provide greater benefits than the benefits payable under this title shall not thereby be construed or held to be in conflict with the provisions of this title.

TITLE V—ADMINISTRATION

RESEARCH

SEC. 501. (a) The Secretary and the Secretary of Health, Education, and Welfare, as appropriate, shall conduct such studies, research, experiments, and demonstrations as may be appropriate—

(1) to improve working conditions and practices in coal mines, and to prevent accidents and occupational diseases originating in the coal-mining industry;

(2) to develop new or improved methods of recovering persons in coal mines after an accident;

(3) to develop new or improved means and methods of communication from the surface to the underground area of a coal mine;

(4) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine atmosphere of active workings of the coal mine;

(5) to develop epidemiological information to (A) identify and define positive factors involved in occupational diseases of miners, (B) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of miners, and (C) improve mandatory health standards;

(6) to develop techniques for the prevention and control of occupational diseases of miners, including tests for hypersusceptibility and early detection;

(7) to evaluate the effect on bodily impairment and occupational disability of miners afflicted with an occupational disease;

(8) to prepare and publish from time to time, reports on all significant aspects of occupational diseases of miners as well as on the medical aspects of injuries, other than diseases, which are revealed by the research carried on pursuant to this subsection;

(9) to study the relationship between coal mine environments and occupational diseases of miners;

(10) to develop new and improved underground equipment and other sources of power for such equipment which will provide greater safety; and

(11) for such other purposes as they deem necessary to carry out the purposes of this Act.

(b) Activities under this section in the field of coal mine health shall be carried out by the Secretary of Health, Education, and Welfare, and activities under this section in the field of coal mine safety shall be carried out by the Secretary.

(c) In carrying out the provisions for research, demonstrations, experiments, studies, training, and education under this section and sections 301(b) and 502(a) of this Act, the Secretary and the Secretary of Health, Education, and Welfare may enter into contracts with, and make grants to, public and private agencies and organizations and individuals. No research, demonstrations, or experiments shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this Act, unless all information, uses, products, processes, patents, and other developments resulting from such research, demonstrations, or experiments will (with such exception and limitation, if any, as the Secretary or the Secretary of Health, Education, and Welfare may find to be necessary in the public interest) be available to the general public.

(d) The Secretary of Health, Education, and Welfare shall also conduct studies and research into matters involving the protection of life and the prevention of diseases in connection with persons, who although not miners, work with, or around the products of, coal mines in areas outside of such mines and under conditions which may adversely affect the health and well-being of such persons.

(e) There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out his responsibilities under this section and section 301(b) of this Act at an annual rate of not to exceed $20,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $30,000,000 for the fiscal year ending June 30, 1972, and for each succeeding fiscal year thereafter. There is authorized to be appropriated annually to the Secretary of Health, Education, and Welfare such sums as may be necessary to carry out his responsibilities under this Act. Such sums shall remain available until expended.

(f) The Secretary is authorized to grant on a mine-by-mine basis an exception to any mandatory health or safety standard under this Act for the purpose of permitting, under such terms and conditions as he may prescribe, accredited educational institutions the opportunity for experimenting with new and improved techniques and equipment to improve the health and safety of miners. No such exception shall be granted unless the Secretary finds that the granting of the exception will not adversely affect the health and safety of miners and publishes his findings.

(g) The Secretary of Health, Education, and Welfare is authorized to make grants to any public or private agency, institution, or organization, and operators or individuals for research and experiments to develop effective respiratory equipment.

TRAINING AND EDUCATION

SEC. 502. (a) The Secretary shall expand programs for the education and training of operators and agents thereof, and miners in—

(1) the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in coal mines; and

(2) in the use of flame safety lamps, permissible methane detectors, and other means approved by the Secretary for detecting methane and other explosive gases accurately.

(b) The Secretary shall, to the greatest extent possible, provide technical assistance to operators in meeting the requirements of this Act and in further improving the health and safety conditions and practices in coal mines.

ASSISTANCE TO STATES

SEC. 503. (a) The Secretary, in coordination with the Secretary of Health, Education, and Welfare and the Secretary of Labor, is authorized to make grants in accordance with an application approved under this section to any State in which coal mining takes place—

(1) to assist such State in developing and enforcing effective coal mine health and safety laws and regulations consistent with the provisions of section 506 of this Act;

(2) to improve State workmen's compensation and occupational disease laws and programs related to coal mine employment; and

(3) to promote Federal-State coordination and cooperation in improving the health and safety conditions in the coal mines.

(b) The Secretary shall approve any application or any modification thereof, submitted under this section by a State, through its official coal mine inspection or safety agency, which—

(1) sets forth the programs, policies, and methods to be followed in carrying out the application in accordance with the purposes of subsection (a) of this section;

(2) provides research and planning studies to carry out plans designed to improve State workmen's compensation and occupational

disease laws and programs, as they relate to compensation to miners for occupationally caused diseases and injuries arising out of employment in any coal mine;

(3) designates such State coal mine inspection or safety agency as the sole agency responsible for administering grants under this section throughout the State, and contains satisfactory evidence that such agency will have the authority to carry out the purposes of this section;

(4) gives assurances that such agency has or will employ an adequate and competent staff of trained inspectors qualified under the laws of such State to make coal mine inspections within such State;

(5) provides for the extension and improvement of the State program for the improvement of coal mine health and safety in the State, and provides that no advance notice of an inspection will be provided anyone;

(6) provides such fiscal control and fund accounting procedures as may be appropriate to assure proper disbursement and accounting of grants made to the States under this section;

(7) provides that the designated agency will make such reports to the Secretary in such form and containing such information as the Secretary may from time to time require;

(8) contains assurances that grants provided under this section will supplement, not supplant, existing State coal mine health and safety programs; and

(9) meets additional conditions which the Secretary may prescribe in furtherance of, and consistent with, the purposes of this section.

(c) The Secretary shall not finally disapprove any State application or modification thereof without first affording the State agency reasonable notice and opportunity for a public hearing.

(d) Any State aggrieved by a decision of the Secretary under subsection (b) or (c) of this section may file within thirty days from the date of such decision with the United States Court of Appeals for the District of Columbia a petition praying that such action be modified or set aside in whole or in part. The court shall hear such appeal on the record made before the Secretary. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or remand the proceedings to the Secretary for such further action as it directs. The filing of a petition under this subsection shall not stay the application of the decision of the Secretary, unless the court so orders. The provisions of section 106 (a), (b), and (c) of this Act shall not be applicable to this section.

(e) Any State application or modification thereof submitted to the Secretary under this section may include a program to train State inspectors.

(f) The Secretary shall cooperate with such State in carrying out the application or modification thereof and shall, as appropriate, develop and, where appropriate, construct facilities for, and finance a program of, training of Federal and State inspectors jointly. The Secretary shall also cooperate with such State in establishing a system by which State and Federal inspection reports of coal mines located in the State are exchanged for the purpose of improving health and safety conditions in such mines.

(g) The amount granted to any coal mining State for a fiscal year under this section shall not exceed 80 per centum of the amount expended by such State in such year for carrying out such application.

(h) There is authorized to be appropriated $3,000,000 for fiscal year 1970, and $5,000,000 annually in each succeeding fiscal year to carry out the provisions of this section, which shall remain available until expended. The Secretary shall provide for an equitable distribution of sums appropriated for grants under this section to the States where there is an approved application.

ECONOMIC ASSISTANCE

SEC. 504. (a) Section 7(b) of the Small Business Act, as amended, is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (4) a new paragraph as follows:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern operating a coal mine in affecting additions to or alterations in the equipment, facilities, or methods of operation of such mine to requirements imposed by the Federal Coal Mine Health and Safety Act of 1969, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of such Act is amended by inserting "or (5)" after "paragraph (3)".

(c) Section 4(c)(1) of the Small Business Act, as amended, is amended by inserting "7(b)(5)," after "7(b)(4),".

(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b)(5) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

INSPECTORS; QUALIFICATIONS; TRAINING

SEC. 505. The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this Act and prescribe their duties. Persons appointed as authorized representatives of the Secretary shall be qualified by practical experience in the mining of coal or by experience as a practical mining engineer or by education. Persons appointed to assist such representatives in the taking of samples of respirable dust for the purpose of enforcing title II of this Act shall be qualified by training, experience, or education. The provisions of section 201 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 251, 270) shall not apply with respect to the appointment of such authorized representatives of the Secretary or to persons appointed to assist such representatives and to carry out the provisions of this Act, and, in applying the provisions of such section to other agencies under the Secretary and to other agencies of the Government, such appointed persons shall not be taken into account. Such persons shall be adequately trained by the Secretary. The Secretary shall develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this Act. In selecting persons and training and retraining persons to carry out the provisions of this Act, the Secretary shall work with appropriate educational institutions, operators, and representatives of miners in developing and maintaining adequate programs for the training and continuing education of persons, particularly inspectors, and where appropriate, the Secretary shall cooperate with such institutions in carrying out the provisions of this section by providing financial and technical assistance to such institutions.

EFFECT ON STATE LAWS

SEC. 506. (a) No State law in effect on the date of enactment of this Act or which may become effective thereafter shall be superseded by any provision of this Act or order issued or any mandatory health or safety standard, except insofar as such State law is in conflict with this Act or with any order issued or any mandatory health or safety standard.

(b) The provisions of any State law or regulation in effect upon the operative date of this Act, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal mines than do the provisions of this Act or any order issued or any mandatory health or safety standard shall not thereby be construed or held to be in conflict with this Act. The provisions of any State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, which provide for health and safety standards applicable to coal mines for which no provision is contained in this Act or in any order issued or any mandatory health or safety standard, shall not be held to be in conflict with this Act.

ADMINISTRATIVE PROCEDURES

SEC. 507. Except as otherwise provided in this Act, the provisions of sections 551–559 and sections 701–706 of title 5 of the United States Code shall not apply to the making of any order, notice, or decision made pursuant to this Act, or to any proceeding for the review thereof.

REGULATIONS

SEC. 508. The Secretary, the Secretary of Health, Education, and Welfare, and the Panel are authorized to issue such regulations as each deems appropriate to carry out any provision of this Act.

OPERATIVE DATE AND REPEAL

SEC. 509. Except to the extent an earlier date is specifically provided in this Act, the provisions of titles I and III of this Act shall become operative ninety days after the date of enactment of this Act, and the provisions of title II of this Act shall become operative six months after the date of enactment of this Act. The provisions of the Federal Coal Mine Safety Act, as amended, are repealed on the operative date of titles I and III of this Act, except that such provisions shall continue to apply to any order, notice, decision, or finding issued under that Act prior to such operative date and to any proceedings related to such order, notice, decision or findings. All other provisions of this Act shall be effective on the date of enactment of this Act.

SEPARABILITY

SEC. 510. If any provision of this Act, or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

REPORTS

SEC. 511. (a) Within one hundred and twenty days following the convening of each session of Congress, the Secretary shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the subject matter of this Act, the progress concerning the achievement of its purposes, the needs and requirements in the field of coal mine health and safety, the amount and status of each loan made pursuant to this Act, a description and the anticipated cost of each project and program he has undertaken under sections 301(b) and 501, and any other relevant information, including any recommendations he deems appropriate.

(b) Within one hundred and twenty days following the convening of each session of Congress, the Secretary of Health, Education, and Welfare shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the health matters covered by this Act, including the progress toward the achievement of the health purposes of this Act, the needs and requirements in the field of coal

mine health, a description and the anticipated cost of each project and program he has undertaken under sections 301(b) and 501, and any other relevant information, including any recommendations he deems appropriate. The first such report shall include the recommendations of the Secretary of Health, Education, and Welfare as to necessary mandatory health standards, including his recommendations as to the maximum permissible individual exposure to miners from respirable dust during a shift.

SPECIAL REPORT

SEC. 512. (a) The Secretary shall make a study to determine the best manner to coordinate Federal and State activities in the field of coal mine health and safety so as to achieve (1) maximum health and safety protection for miners, (2) an avoidance of duplication of effort, (3) maximum effectiveness, (4) a reduction of delay to a minimum, and (5) most effective use of Federal inspectors.

(b) The Secretary shall make a report of the results of his study to the Congress as soon as practicable after the date of enactment of this Act.

JURISDICTION; LIMITATION

SEC. 513. In any proceeding in which the validity of any interim mandatory health or safety standard set forth in titles II and III of this Act is in issue, no justice, judge, or court of the United States shall issue any temporary restraining order or preliminary injunction restraining the enforcement of such standard pending a determination of such issue on its merits.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

CARL D. PERKINS,
JOHN H. DENT,
ROMAN C. PUCINSKI,
AUGUSTUS F. HAWKINS,
PATSY T. MINK,
PHILLIP BURTON,
WILLIAM H. AYRES,
JOHN N. ERLENBORN,
ALPHONZO BELL,
DOMINICK V. DANIELS,
JOHN M. ASHBROOK,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
WALTER F. MONDALE,
THOMAS F. EAGLETON,
ALAN CRANSTON,
JACOB JAVITS,
WINSTON L. PROUTY,
RICHARD S. SCHWEIKER,
WILLIAM B. SAXBE,
RALPH T. SMITH,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (S. 2917) to improve the health and safety conditions of persons working in the coal mining industry of the United States, submit the following statement and explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate bill and the House amendment were very similar in substance. However, the arrangement of their provisions differed substantially. The substitute agreed upon in conference adopts, in all major respects, the organization of the House amendment. Throughout this statement, references are to the sections and subsections of the conference substitute. The conference substitute adopts, except as explained herein, all of the major provisions of the House amendment. This statement will explain the differences between the conference report and the House amendment, except for differences which are purely technical or conforming.

Section 2

The Senate bill and the House amendment each contained statements of findings and purposes which were substantially the same. The committee of conference adopts these provisions with appropriate modifications to recognize the transfer of functions from the Surgeon General to the Secretary of Health, Education, and Welfare, and to incorporate the more detailed Senate provisions relating to the particular purposes of the act which emphasize the need to eliminate unsafe and unhealthful conditions and practices in this industry. In adopting these provisions, the managers intend that the act be construed liberally when improved health or safety to miners will result.

Section 3

The definitions of terms used in the bill are substantially the same in both the Senate bill and the House amendment. A new definition of the term "mandatory health or safety standard" has been added. It does not change the substance of either the Senate bill or the House amendment, but is merely a technical change to avoid repeating the statement that the standards are those established by titles II and III of the act and those later promulgated under section 101 of the act as the Senate bill did. The definition of "inspection" as contained in the House amendment is no longer necessary, since the conference agreement adopts the language of the Senate bill in section 104(c) of the act which provides for findings of an unwarrantable failure at any time during the same inspection or during any subsequent inspection without regard to when the particular inspection begins or ends. The conference agreement adopts the Senate version of the definition of "Secretary" which specifically includes his delegate. The delegate would, of course, be a person designated by him to administer and enforce this act and would include the Federal inspectors who are referred to throughout the act as the Secretary's authorized representatives.

Section 4

The provision of the Senate bill and House amendment describing the mines which are subject to the act, though different in phraseology, were the same in substance. The agreement reached in conference adopts the provisions of both the Senate bill and House amendment, but with a change in phraseology which excludes excess verbiage. Under this provision, as in the case of both the Senate bill and the House amendment, the coal mine, the operator of the mine, and every miner therein is subject to the provisions of the act.

Section 5

Both the Senate bill and House amendment provided for an interim compliance panel composed of five government officials or their delegates. The Panel can draw staff and other assistance from the Departments of Interior, Labor, Commerce, and Health, Education, and Welfare and will also have its own budget for other staff and travel and other expenses. The provisions are substantially the same, except that the House amendment required that hearings held under titles II and III of the act be of record and required that the provisions of section 554 of title 5, United States Code, formerly known as the adjudicatory provisions of the Administrative Procedures Act, be complied with. It also provided for judicial review of the Panel's decisions under section 106 of the act. The conference substitute adopts this provision, in the House amendment.

TITLE I—GENERAL

The Senate bill contained provisions for promulgation of mandatory standards which separated into two titles the promulgation of health standards from the promulgation of safety standards. The House amendment provided a common procedure for the promulgation of both types of standards in one section. The conference substitute adopts the House approach on this point to avoid repetition of many provisions.

Section 101

1. This section deals with the promulgation of mandatory health and safety standards. The conference substitute retained the provisions of the House amendment which had no counterpart in the Senate bill and which provided that mandatory health or safety standards promulgated under this title may not reduce the protection afforded miners below that afforded by the interim mandatory health or safety standards set forth in titles II and III or below the standards subsequently promulgated under this section. Also, it provides that when objections are raised to standards, hearings will be held by the appropriate Secretary, and the Secretary who held the hearing must publish his findings. These findings are to be published in the Federal Register. All standards shall be promulgated finally by the Secretary of the Interior. The health standards promulgated by the Secretary will be those transmitted to him by the Secretary of Health, Education, and Welfare.

2. The Senate bill required that proposed mandatory health and safety standards for surface coal mines, including open-pit and auger coal mines and surface work areas of underground coal mines must be developed and published by the Secretary within a year after the date of enactment of the act. The comparable House provision required that mandatory safety standards for surface coal mines must be developed and published within one year after such date. The conference agreement adopts the Senate provision with modifications. It provides that proposed mandatory health and safety standards for such surface coal mines must be published within one year after the date of enactment. Proposed mandatory standards for surface work areas of underground coal mines, in addition to those interim standards established by this Act, must also be published within that twelve-month period. In both cases, such publication and final promulgation will follow the procedures set forth in this section for all health and safety standards.

3. The Senate bill provided that all interpretations, regulations, and instructions of the Secretary which are in effect on the operative date of the title and which are not inconsistent with any provision of this act will remain in effect until modified or superseded as provided in this act. The House amendment contained no comparable provision. The conference substitute adopts the Senate provision with the requirement that the interpretations, regulations, and instructions of the Director of the Bureau of Mines, who by statute administers the 1952 Act, as well as those of the Secretary, in effect on the date of enactment, and not inconsistent with this act, must be published in the Federal Register as soon as possible after enactment for information purposes and to consolidate them in one place. The managers view this requirement as a very minimal task for the Department to undertake and one that is quite important to both the operators and the miners, as they must know well in advance of the operative date of titles II and III what interpretations, regulations, and instructions will continue to apply.

4. The House amendment required that a copy of every proposed standard or regulation must be sent, when published in the Federal Register, to each operator and the representative of miners at the mine and a copy posted on the bulletin board. The House amendment also stipulated that failure to receive the notice, including lateness of

receipt thereof, does not relieve anyone of the obligation under the act to comply with them once finally promulgated. The conference agreement adopts this provision with the note that it is intended that failure to so receive them or to receive them timely also does not relieve any interested person who wants to file written objections to do so under this section within the time afforded therefor in the notice of proposed standards or regulations.

Section 102

1. The Senate bill required the Secretary of the Interior to appoint an Advisory Committee on Coal Mine Safety Research. It would be composed of the Director of the Office of Science and Technology, or his delegate, the Director of the National Bureau of Standards, or his delegate, the Director of the National Science Foundation, or his delegate, and such other persons as the Secretary may appoint who are knowledgeable in the field of coal mine safety. It would be the duty of this committee to consult with, and make recommendations to, the Secretary on matters involving coal mine safety research. The Secretary would be required to consult with, and to consider the recommendations of, the Advisory Committee in the making of grants and entering into of contracts for safety research. The Chairman and a majority of the members of the Committee must be individuals who have no economic interest in the coal mining industry, and are not operators, miners, or governmental employees. The Senate bill also required the Secretary of Health, Education, and Welfare to appoint an Advisory Committee on Coal Mine Health Research which would be composed of the Director of the Bureau of Mines or his delegate, the Director of the National Science Foundation, or his delegate, the Director of the National Institutes of Health, or his delegate, and such other persons as the Secretary may appoint who are knowledgeable in the field of coal mine health research. The duties of this Advisory Committee and the restrictions on the composition of its membership parallel those of the Advisory Committee for safety. The House amendment contained no comparable provision. The conference substitute adopts this provision of the Senate bill.

2. The Senate bill authorized the Secretary or the Surgeon General to appoint other advisory committees to advise him in carrying out the provisions of this act. The comparable provision of the House amendment authorized the Secretary of the Interior to appoint advisory committees for that purpose. The Senate bill restricted the choice of chairman to persons who have no economic interest in the coal mining industry and are not operators, miners, or governmental employees. It required that a majority of the members be individuals who have no such interest in the coal mining industry. The conference substitute adopts the provisions of the Senate bill with technical changes.

3. The House amendment provided that nongovernmental advisory committees members be paid not in excess of the GS–18 rate, while the Senate bill let the administrators set the rate up to $100 per day. The conference adopts the House amendment which is consistent with other recent statutes on this subject.

Section 103

1. Section 103 relates to inspections and investigations in coal mines. The provisions of the Senate bill and the House amendment were largely identical. With respect to the authority of the Secretary of Health, Education, and Welfare in this area, the two versions differed in language but not materially in substance. The conference substitute in this regard adopts a combination of both provisions.

2. The Senate bill provided that when a representative of the miners has reason to believe that a violation of a mandatory standard exists, or that an imminent danger exists, he has a right to obtain an immediate inspection of the mine. The notice must be reduced to writing signed by the representative of the miners giving the notice, and a copy provided to the operator. A special inspection was required whenever such notification was received. The comparable provision of the House amendment permitted any miner or any authorized representative of the miners, when he believed that a violation of a mandatory standard existed or that an imminent danger existed, to notify the Secretary or his authorized representative. Upon receipt of the notification, the Secretary or the authorized representative could make a special investigation. The conference substitute provides that whenever a representative of the miners has reasonable grounds to believe that such a violation or imminent danger exists, he may obtain an immediate inspection by giving notice. It requires that the notice must be reduced to writing, signed by the representative who is making the complaint, and a copy provided the operator or his agent by the time the inspection is made. However, an exception is included under which, upon the request of the person giving such notice, his name and the names of the individual miners referred to therein will not appear on the copy of the notice provided the operator or his agent. It should be noted that, as used here and throughout the act, the term "representative of the miners" includes any individual or organization that represents any group of miners at a given mine and does not require that the representative be a recognized representative under other labor laws.

3. The Senate bill authorized the Secretary to enter into agreements with other Federal agencies and the States to utilize their services, personnel, and facilities in carrying out his functions under the act. The House amendment did not extend this authority to State agencies and personnel. The conference adopts the House provision. The managers note that section 503 of this act authorizes cooperation with the States in carrying out Federal responsibilities. The Secretary should utilize that authority where appropriate, except that the managers intend, in adopting the House provision here, that the Secretary not delegate his enforcement authority to State agencies or personnel.

4. The Senate bill provided for the daily stationing of Federal inspectors at underground coal mines which liberate excessive quantities of explosive gases and which are likely to present explosion dangers. The House amendment provided for a minimum of 26 spot inspections on an irregular basis at such mines and at a mine that had a gas ignition or explosion during any 5-year period beginning prior to the operative date of this title, and at a mine that has other especially hazardous conditions. The Secretary would make these findings. The conference agreement adopts the House amendment with the requirement that there be, in such cases, a minimum of one spot inspection during every 5 working days at a mine that meets one or all of these criteria. These inspections are to be conducted at irregular intervals.

Section 104

Both the Senate bill and the House amendment contained similar provisions relating to findings, notices, and orders. The conference adopts the language of the House amendment in sections 104 (a) and (b) with some technical changes. One of these relates to the fact that there are, as mentioned below, special enforcement provisions relative to the dust standard only.

1. The Senate bill provided that if an inspection of a coal mine shows that a mandatory health or safety standard is being violated but that no imminent danger is created thereby, though the violation could significantly and substantially contribute to the cause or effect of a mine hazard, and if it is found that the failure of the operator to comply is unwarrantable, that finding shall be included in the notice given the operator under section 104(b) or (i). If, during that inspection or any subsequent inspection carried out within 90 days after the issuance of the notice, another violation of any such mandatory standard is discovered by the inspector and he finds that the violation is also caused by an unwarrantable failure of the operator to comply, the inspector is required to issue a withdrawal order and to continue, under section 104(c)(2) of both the Senate bill and the House amendment, to issue such orders when he finds other unwarrantable violations until such time as a subsequent inspection discloses the occurrence of no such similar violation. The comparable provision of the House amendment required the inspector, in such a case, to cause the mine to be reinspected to determine if any similar violation exists. If such a similar violation did exist, and was caused by the unwarrantable failure of the operator to comply, the inspector would then issue a withdrawal order. The substitute agreed upon in conference adopts the provision of the Senate version of section 104(c)(1) with technical changes to make it clear that, if another violation of any mandatory health or safety standard occurs which is also caused by an unwarrantable failure of such operator to comply, then a withdrawal order must be issued. The managers note that an "unwarrantable failure of the operator to comply" means the failure of an operator to abate a violation he knew or should have known existed, or the failure to abate a violation because of a lack of due diligence, or because of indifference or lack of reasonable care, on the operator's part.

2. Both the Senate bill and the House amendment provided that any notice or order issued hereunder by an inspector could be modified or terminated by an authorized representative of the Secretary. The Senate bill also provided that such modification or termination would be subject to review in the same manner as the order being modified or terminated. The House amendment did not contain this specific provision. The conference substitute adopts the language of the House amendment. It should be noted, however, that the conference substitute in sections 105(a)(1) and 106 states, as in the House amendment, explicitly that modification and termination of any order is subject to a review by the Secretary and the court at the request of the representative of miners under the act.

3. The conference substitute retains the provision in section 104(h) of the House amendment relating to withdrawal orders in the cases covered by that section, but it adds an additional provision that the hearing in these cases will be of record and be subject to section 554 of title 5 of the United States Code, which requires a formal adjudicatory type hearing since the judicial review provisions of section 106 of this title provide for an appeal on the record.

4. Both the Senate bill and the House amendment had special provisions with respect to enforcement of the respirable dust standard. Under the Senate bill, if it is found from dust samples that the concentrations of respirable dust exceed the permissible limits, the Secretary is required to issue a notice fixing a reasonable time to take corrective action, which could not exceed 72 hours. The operator was then required to take corrective action immediately to bring such concentrations below the required level. At the end of this period, no work could be performed except that needed to sample. The comparable provision of the House amendment provided that when dust samples showed a violation of the applicable standard, the Secretary or his authorized rep-

resentative must find a reasonable time within which to take corrective action and issue a notice fixing the reasonable time for the abatement of the violation. During that period the operator would cause samples to be taken of the affected area during each production shift. The House amendment required that if, at the expiration of the period prescribed in the notice or in any extension thereof, the violation had not been abated, a withdrawal order shall be issued.

The conference agreement adopts the House amendment with some modifications. Under this provision, if, based on samples taken, analyzed, and recorded as provided in section 202(a) or, based upon an inspection, the respirable dust standard is exceeded, the inspector, during an inspection, or some other delegate of the Secretary, without an inspection, must issue a notice of violation and fix a reasonable time to abate the violation. The conference agreement does not place a time limit here but parallels the procedures followed in the case of notices for other health or safety violations under section 104(b). Also, it does provide, in section 105(a), for review solely of the reasonableness of the time fixed in this notice and other notices issued under section 104 of violations of the health and safety standards on application by the operator or the representative of the miners. The Secretary or the court cannot stay the application of such notice while the time fixed is being reviewed.

If the operator fails to abate the condition and reduce the dust concentration to the allowable limit within the time fixed or subsequently extended, a withdrawal order must be issued which shall remain in effect until the Secretary or his authorized representative has reason to believe, based on actions taken by the operator, that the applicable dust standard will be complied with when production is resumed. The Senate bill contained a provision, which was retained in the conference substitute, that when an order is issued under this section, the Secretary, if requested, must send to the mine a person or team of persons (if available) who will remain at the mine for such time as they deem appropriate to assist in reducing respirable dust concentrations. While there, they may require the operator to take such action as they deem appropriate to insure the health of any person in the coal mine.

Section 105

1. The Senate bill and the House amendment each contained provisions under which all withdrawal orders issued under the act may be reviewed by the Secretary, except orders issued under section 104(h) which provides separate procedures for review. The conference substitute adopts these provisions with technical changes and with the modification referred to above under which an operator who is issued a notice pursuant to section 104 (b) or (1) or the representative of the miners at the mine may obtain a review of the notice if he believes that the period of time fixed for the abatement of the violation is unreasonable. Under the substitute, the applicant is required to send a copy of the application to the representative of the miners in the affected mine, or the operator, as appropriate, but the filing of an application for review under this section will not operate as a stay of any order or notice.

2. Both the Senate bill and the House amendment provided that, pending the completion of an investigation required by section 105, an applicant may get temporary relief from the Secretary. The Senate bill limited this authority to non-imminent danger orders only. The House amendment did not so limit it. Under the Senate bill the Secretary could grant such relief only if a hearing has been held in which all parties were given an opportunity to be heard, the applicant shows there is a substantial likelihood that the findings of the Secretary will be favorable to the applicant, and that the relief will not adversely affect the health and safety of miners in the coal mine. The conference agreement adopts the language of the Senate bill, but requires that no such relief may be given in the case of notices issued under section 104 (b) or (1), as well as in the case of appeals from imminent danger orders.

Section 106

1. Both the Senate bill and the House amendment provided for judicial review of decisions issued by the Panel or the Secretary, except decisions relative to civil penalties which are subject to review under section 109. The substantive difference between these provisions lies in the fact that under the Senate bill the review could be in the Court of Appeals for the District of Columbia as well as the court of appeals for the circuit in which the mine is located. The conference substitute adopts the Senate provision with technical changes and makes it clear that the court cannot entertain an appeal until the person seeking review has exhausted his administrative remedies.

2. Both the Senate bill and the House amendment provided authority for the court to grant necessary relief pending final determination of the appeal, except in the case of imminent danger appeals, from a decision of the Secretary. Under the Senate bill, however, such relief could be given only if (1) all parties have been notified and given an opportunity to be heard, (2) the person requesting the relief shows there is a substantial likelihood that he will prevail on the merits in the final determination of the proceeding, and (3) that the relief will not adversely affect the health and safety of miners in the coal mines. The conference substitute adopts these requirements.

3. The Senate bill and the House amendment also limited the right of courts to grant temporary relief in proceedings to review decisions issued by the Panel. The conference substitute adopts the Senate provision which includes the first two restrictions just mentioned.

4. The Senate bill provided that attorneys appointed by the Secretary may appear for, and represent him in, proceedings for judicial review. The House amendment contained no comparable provision. The conference substitute adopts this provision with technical changes.

Section 108

1. Both the Senate bill and the House amendment contained provisions under which injunctions could be obtained for violations of this act and matters related thereto. Under the Senate bill these civil actions would be instituted by the Secretary. Under the House amendment, the Secretary must request the Attorney General to institute them. Under the conference agreement the Secretary may institute the civil action, and, in such action, attorneys appointed by the Secretary may appear for and represent him.

2. The House amendment, unlike the Senate bill, provided that temporary restraining orders may not be issued without notice unless the petition therefor alleges that substantial and irreparable injury to miners will be unavoidable, and provides that the temporary restraining order may be effective for no more than 7 days. The conference substitute modifies the provision of the House amendment to provide that the court may issue temporary restraining orders in accordance with rule 65 of the Federal Rules of Civil Procedure, but provides that the time limit in the case of a temporary restraining order issued without notice shall be no more than 7 days, and that, in any action to enforce an order or decision, the substantial evidence rule will apply.

Section 109

1. Both the Senate bill and the House amendment provide for the assessment of civil penalties against the operator for violations. Under the Senate bill such a penalty shall not be less than $1, or more than $25,000, for each occurrence. Under the House amendment the penalty shall not be more than $10,000 for each violation with no minimum established. The conference substitute adopts the provisions of the House amendment in this regard with technical changes.

2. The Senate bill provided that, in determining the amount of the civil penalty only, the Secretary should consider, among other things, whether the operator was at fault. The House amendment did not contain this provision. Since the conference agreement provides liability for violation of the standards against the operator without regard to fault, the conference substitute also provides that the Secretary shall apply the more appropriate negligence test, in determining the amount of the penalty, recognizing that the operator has a high degree of care to insure the health and safety of persons in the mine.

3. The Senate bill provided that any miner who willfully violates the safety standards relating to smoking or to carrying of smoking materials, matches, or lighters shall be subject to a civil penalty which shall not be more than $1,000 for each occurrence. The House amendment did not contain this provision. The conference substitute retains this provision, but modifies it to provide that any civil penalty assessed by the Secretary shall not be more than $250 for each occurrence of the violation.

4. Both the Senate bill and the House amendment provided an opportunity for a hearing in assessing such penalties, but the Senate bill required a record hearing under 5 U.S.C. 554. The conference substitute adopts the Senate provision with the added provision that, where appropriate, such as in the case of an appeal from a withdrawal order, an effort should be made to consolidate the hearings. The commencement of such proceedings, however, shall not stay any notice or order involving a violation of a standard.

5. The Senate bill provided that if a person against whom a civil penalty is assessed fails to pay it, the Secretary must file a petition for enforcement of the order in the appropriate district court in the United States. The petition must designate the person against whom the order is sought to be enforced. The court is given jurisdiction to enter a judgment enforcing the order as appropriate. The court would hear the case on the record made before the Secretary and the findings of the Secretary, if supported by substantial evidence on the record considered as a whole, would be conclusive. The corresponding provision of the House amendment required the Secretary to request the Attorney General to institute a civil action in a district court of the United States to collect the penalty. Such proceeding would be de novo.

The conference agreement is similar to the Senate bill. The court would hear the case de novo and determine all relevant issues, except issues of fact which were or could have been litigated before a court of appeals under section 106. This provision recognizes that the facts involved in the civil penalty may already have been fully litigated by the court of appeals under section 106 and should not be relitigated here. Also, in some cases, they could have been so litigated and were not. Upon the request of the respondent in the de novo proceeding, issues of fact not litigated under section 106 which are in dispute must be submitted to a jury and, on the basis of the jury's finding, the court would determine the amount of the penalty to be imposed. The court has jurisdiction to enter

a judgment enforcing the order, or modifying it, or setting it aside, or remanding it to the Secretary.

The Senate bill, but not the House amendment, provided that attorneys appointed by the Secretary may appear and represent him in proceedings to enforce civil penalties. The conference agreement adopts, with a technical change, the Senate provision because the managers believe that here and elsewhere in the act where this provision is found it is most important that the Secretary establish a competent legal staff with experience and understanding of this legislation to handle expeditiously litigation not only at the administrative hearing stage, but also at the appellate and district court stage. The highly technical nature and unique conditions and practices that occur in this industry warrant the conclusion that the health and safety of the miners requires not only well-trained and experienced inspectors and administrators, but also a legal staff with experience gained in the handling of such proceedings.

6. The Senate bill provided that any operator who willfully violates the health or safety standards or refuses to comply with an order incorporated in a decision issued under the title shall be punished by a fine of not more than $25,000, or imprisoned for not more than 1 year, or both, except that for a second conviction the maximum punishment is $50,000, or imprisonment for 5 years, or, both. The House amendment provided for punishment in similar cases by a fine of not more than $10,000 or imprisonment for not more than 6 months, or by both, and for a second conviction by a fine of not more than $20,000 or by imprisonment of not more than 1 year, or by both. The conference substitute adopts the provisions of the Senate bill with technical modifications.

7. The House amendment provided criminal penalties against persons who manufacture new electrical equipment for use in coal mines that is placed in commerce and that is falsely represented as complying with the Secretary's specifications or regulations, and against any other person who removed, altered, modified, or rendered inoperative such equipment prior to its sale or delivery to its ultimate purchaser and who falsely represents such equipment as meeting such specifications or regulations. The Senate bill does not contain such a provision. The conference agreement provides that anyone, whether a manufacturer or not, who knowingly distributes, sells, offers for sale, introduces, or delivers in commerce such equipment which is falsely represented as so complying with this Act or with any specification or regulation of the Secretary applicable to such equipment shall be subject to appropriate sanctions. The objective of this provision is to insure that manufacturers and dealers of such equipment will meet their safety responsiiblities in regard to this equipment.

Section 110

The Senate bill provided that where a withdrawal order is issued for repeated failures to comply with a health or safety standard, the Secretary, after giving an opportunity for a hearing to interested persons, shall order all miners who are idled due to the order to be fully compensated by the operator at their regular rates of pay for the time they were idled, or for 1 week, whichever is the lesser. These orders would be subject to judicial review. The corresponding provision of the House amendment provided that where a withdrawal order has been issued all miners working during the shift when the order was issued who are idled by the order will be entitled to full compensation at their regular rates of pay for the period they are idled, but not for more than the balance of the shift. If the order is not terminated prior to the next working shift all miners on that shift who are idled will be entitled to full compensation for the period they are idled, but for not more than 4 hours of the shift. The substitute agreed upon in conference adopts the provisions of the House amendment, except that where the mine is closed by an order issued on account of an unwarrantable failure of the operator to comply with a health or safety standard, the miners who are idled will obtain the benefits described in the Senate bill.

This section of the House amendment also contained a provision which is retained in the conference substitute, under which an operator who violates or fails or refuses to comply with a section 104 order must pay full compensation at regular rates of pay to miners who should have been withdrawn or prevented from entering the mine or portion thereof as the result of that order in addition to pay received for work performed after such order is issued.

Nothing in this section is intended to interfere with or preempt any collective bargaining agreement.

TITLE II—INTERIM MANDATORY HEALTH STANDARDS

Section 201

Both the Senate bill and the House amendment provided that the standards in this title are interim until superseded in whole or in part by mandatory health standards promulgated under section 101 of the act. The Senate bill had also required that the promulgated standards be an improvement over the interim standards in this title. The provisions of this section are permanent under both. The conference agreement adopts the House language with this requirement of the Senate bill.

The Senate bill established that it is the purpose of this title to improve underground coal mine working conditions to enable miners to work their entire adult life without fear of incurring respiratory or other occupationally caused diseases. The House amendment contained no similar provision. The conference adopted the Senate provision.

Section 202

1. The Senate bill directed each operator to take dust samples with a device approved by the Secretary and in a manner prescribed by the Secretary to enable the Secretary to cause an inspection of the mine depending upon the results of the samples. The samples were to be transmitted to the Secretary at the operator's expense. The House amendment also required such sampling to enable the Secretary to enforce the dust standard with or without an inspection. The samples were to be transmitted to the Secretary at his expense and were to be provided the operator. The House amendment required that the sampling device be approved by both the Secretary and the Secretary of Health, Education, and Welfare. The conference adopted the House language with technical changes and with the Senate requirement that the operator transmit samples at his expense. The samples will be transmitted to the Secretary for the purpose of enforcement under section 104(i). The devices for sampling, including the MRE instrument, must be approved by both Secretaries.

2. The Senate bill established a 3.0 milligram standard effective 6 months after enactment and a 2.0 milligram standard effective 3 years after enactment, but provided a procedure, similar to that followed under the Reorganization Act, for extending the effective date of the 2.0 milligram standard. The Senate bill permitted time extensions of 6 months each on a mine-by-mine basis to meet both standards under permits for noncompliance to be issued by the Panel based on an application and certain findings. The permits could not extend the effective date of the 3.0 milligram standard more than 36 months after enactment, or the effective date of th 2.0 milligram standard more than 72 months after enactment. Each permit would prescribe a maximum limit of 4.5 milligrams for extensions of the 3.0 milligram standard during the period of noncompliance, and a maximum limit of 3.0 milligrams for extensions of the 2.0 milligram standard during the period of noncompliance, or such lower limit as the Panel determines can be achieved.

The House amendment established a 4.5 milligram standard effective 6 months after enactment, and a 3.0 milligram standard effective 1 year after enactment. In the case of the 4.5 milligram standard, the Panel could grant one 90-day extension to comply with the standard on a mine-by-mine basis, and, in the case of the 3.0 milligram standard, the Panel could grant one 6-month extension to so comply.

The substitute agreed upon in conference establishes a maximum 3.0 milligram standard effective 6 months after enactment, and a maximum 2.0 milligram standard effective 3 years after enactment. Where an operator, using available technology, finds he cannot comply with either standard on its effective date he may file an application for a permit of noncompliance. The substitute adopts the Senate language relative to the information which must be included in each application for a permit, including renewals thereof. If the Panel is satisfied, based on the application, that the operator cannot so comply with the 3.0 milligram standard or the 2.0 milligram standard on their appropriate effective dates, the Panel must issue the permit and the operator will be required to maintain the respirable dust level at the lowest level possible but, in the case of the 3.0 milligram standard, at no more than 4.5 milligrams per cubic meter of air, and, in the case of the 3.0 milligram standard, at no more than 3.0 milligrams per cubic meter of air. Permits and renewals thereof are issued for periods of not more than 1 year.

Renewals, where needed, may be issued on the basis of a new application satisfactory to the Panel and upon a determination by the Panel, after notice and an opportunity for a hearing, that the application is satisfactory and that the applicant will still be unable to comply. No permit or renewal thereof can extend the effective date of the 3.0 milligram standard beyond 18 months after enactment, or the 2.0 milligram standard beyond 72 months after enactment.

3. The Senate bill required that the operator continuously maintain the concentrations of respirable dust in the atmosphere of the active mine workings at the established standard and thereby prohibited the averaging of dust measurements over several shifts. The House amendment required that the operator maintain the average concentration of respirable dust in the mine atmosphere to which each miner in the active workings is exposed at the established standard and defined the term "average concentration".

The substitute adopted by the conference requires the operator to maintain continuously the average concentration of respirable dust in the mine atmosphere during each shift to which each miner is exposed at or below the established maximum standard or the permitted maximum standard. It also provides that the term "average concentration" means that, for a maximum period of 18 months after enactment, measurements of a minimum number of the same production shifts in consecutive order are authorized to obtain a statistically valid sample. At the end of this 18 month period, it requires that the measurements be over one production shift only, unless the Secretary and the Secretary of Health, Education, and Welfare find, in accordance with the standard-setting procedures of section 101, that single-shift measurements will not accurately rep-

resent the atmospheric conditions during the measured shift to which the miner is continuously exposed.

4. The Senate bill required that the Secretary make frequent spot inspections of areas of a mine for which permits are issued, as well as all other areas of the mine. The House amendment had no comparable provision. The conference agreement adopts the Senate provision on this matter with technical changes.

5. The Senate bill provided, in this title, for judicial review of the Panel's decision. The House amendment provided in section 5 for such review of all of the Panel's decisions. The conference agreement adopted the House provision.

6. The Senate bill directed the Surgeon General to submit to Congress within 1 year after enactment recommendations as to the maximum permissible total exposure of individuals to coal mine dust during a shift and, within 3 years after enactment, the Secretary must publish a schedule specifying times when mines shall reduce total personal exposure to dust, based on his determination of the time needed for such levels to be technologically feasible. The House amendment directed the Secretary of Health, Education, and Welfare, beginning 1 year after enactment, to reduce the dust level below 3.0 milligrams as he determines such reductions become technologically attainable. The conference agreement adopts the House provision with the requirement that the schedule be published under section 101 and that the new levels prevent new incidences of occupationally caused respirable diseases in the mines and prevent further development thereof. The schedule which may accelerate the times prescribed in this title for the effective dates of the dust standards must prescribe the maximum time necessary to achieve the new levels taking into consideration present and future advancements in technology.

7. The Senate bill provided that respirators must be worn by persons to protect them from exposures to dust levels in excess of the maximum dust levels established under this title. The House amendment provided that respirators and other approved devices must be made available to all persons exposed to such levels. The conference agreement adopts the House provision on this matter as applied to all respiratory equipment.

Section 203

1. The Senate bill directed the operator of an underground coal mine to establish a program requiring that each miner be given an annual X-ray test beginning 9 months after enactment in a manner prescribed by the Surgeon General. The House amendment directs that the operator cooperate with the Secretary of Health, Education, and Welfare in making available to each miner working underground an X-ray at least once every 5 years beginning 1 year after enactment, and that each worker who begins work in a coal mine for the first time shall be given an X-ray and again 3 years later if he is still engaged in coal mining, and if the second X-ray shows evidence of pneumoconiosis such miner shall be given another X-ray within 2 additional years. The conference agreement adopts the House amendment on this matter modified by a requirement that each miner be given an opportunity to have an X-ray within 18 months after enactment and a second X-ray within 3 years thereafter and subsequent X-rays at such intervals as the Secretary of Health, Education, and Welfare may prescribe which does not exceed 5 years. All chest X-rays must be given in accordance with specifications to be prescribed by the Secretary of Health, Education, and Welfare prior to the operative date of this title and from time to time thereafter.

2. The Senate bill provided that X-rays and other medical examinations of miners shall be paid for by the operator with authority in the Secretary of Health, Education, and Welfare to provide such X-rays and examinations on a reimbursable basis. The House amendment also specifically provided that the miner not pay for these and provided that the operator pay other costs necessary to enable the miners to take such X-rays or examinations. The conference agreement adopts the House provision.

3. The Senate bill provided that on the effective date of the 3.0 milligram standard any miner who, based on X-ray or other medical readings, shows evidence of pneumoconiosis shall be assigned by the operator to work, at the option of the miner, in any working section of the mine where the mine atmosphere contains respirable dust concentrations of not more than 2.0 milligrams, and after the effective date of the 2.0 milligram standard such miner shall be assigned to an area below 2.0 milligrams in order to prevent further development of the disease. The House amendment provided that if any miner, based on X-ray readings, shows substantial evidence of the development of pneumoconiosis, he shall, at the option of the miner, be assigned to work within an active working place where the mine atmosphere does not exceed 2.0 milligrams or in an area where the respirable dust concentrations exceeds 2.0 milligrams if he wears respiratory equipment and, within 1 year after enactment, if a miner shows any evidence of pneumoconiosis, he shall be assigned, at the option of the miner, to an area of the mine where the dust concentration is below 1.0 or to whatever lower level the Secretary of Health, Education, and Welfare determines is appropriate to prevent the further development of the disease.

The conference agreement provides that 6 months after enactment which is the effective date of the 3.0 milligram standard any minor based on X-ray readings or other medical examinations such as pulmonary function tests, who shows evidence of the development of pneumoconiosis must be afforded the option of transferring from his position in the mine to another position in any area of the mine where the respirable dust concentration during each shift is not more than 2.0 milligrams. In addition, the substitute provides that 3 years after enactment any miner, based on such readings or other such medical examinations, who shows evidence of the development of pneumoconiosis must be afforded the option of transferring from his position in the mine to another position in any area of the mine where the respirable dust concentration during each shift is not more than 1.0 milligrams, or, if such level is not attainable, to a position in the mine where the respirable dust concentration is the lowest attainable below 2.0 milligrams.

4. The House amendment provided for autopsies of active and inactive miners to be performed, with the consent of the surviving widow or, if there is none, then the surviving next of kin. Such autopsies shall be paid for by the Secretary of Health, Education, and Welfare. There was no comparable Senate provision. The conference agreement adopts the House provision on this matter.

Section 206

The Senate bill provided that within 6 months after enactment the Surgeon General must establish proposed mandatory standards establishing maximum noise exposure levels for all coal mines. The House amendment provided that on enactment the noise standards prescribed under the Walsh-Healey Public Contracts Act, as amended, in effect on October 1, 1969, or such improved standards as the Secretary of the Interior may prescribe, would be applicable to all coal mines and each operator must comply with them. It also required that tests be made every 6 months by a qualified person of the noise level at the mine and that, based on such tests, if the standards are exceeded at that mine, the operator must take immediate action to install protective devices reducing the noise level, except that he shall not require any device that would pose a hazard to the miners. The conference agreement adopts the House provision with modifications requiring that the Secretary of Health, Education, and Welfare establish proposed mandatory health standards establishing maximum noise exposure levels for underground coal mines within 6 months after enactment which levels shall be an improvement over the noise standards prescribed under the Walsh-Healey Public Contracts Act. Also, beginning 6 months after enactment and every 6 months thereafter, tests must be made by the operator of the noise level of the mine by a qualified person and the results must be certified to both Secretaries. In meeting the noise standard, the operator must not require the use of any protective device or system, including personal devices, which the Secretary finds are hazardous or which will cause a hazard to the miners.

TITLE III—INTERIM MANDATORY SAFETY STANDARDS

Section 301

1. Both the Senate bill and the House amendment provided that the standards in this title are interim until superseded in whole or in part by mandatory safety standards promulgated under section 101 of the act. The Senate bill also required that the promulgated standards be an improvement on the safety standards in this title. The provisions of this section are permanent under both. The conference agreement adopts the House language, but with this requirement of the Senate bill. It is intended that these standards not be static, but that they be upgraded and improved to provide increased safety and, when necessary, to meet changes in technology and mining conditions and systems.

2. The Senate bill set forth the purpose of this title and directed that the Secretary immediately accelerate and initiate research, studies, and investigations, including demonstrations and experiments, to further upgrade the mandatory safety standards and to develop new and improved ones, particularly in certain specified areas where technology seemed to be lagging. The House amendment had no similar provision. The conference agreement adopts the Senate version with some technical changes.

3. The Senate bill provided that, where an exception to a standard is authorized, it can only be made when the criteria for the exception as set forth in the standard is met and upon a finding that granting the exception would not pose a danger to the safety of miners. There was no comparable House provision. The conference agreement adopted the approach of including this requirement in the appropriate provision of the title which permits exceptions rather than making it a general requirement, but, at the same time, requiring that, in granting any exception to a standard, the Secretary or his inspector must publish the reasons therefor and make them available to the miners at the mine before the exception is effective. If the miners believe that the granting of any exception will diminish safety, their redress is to utilize the provisions of section 301(c).

4. The House amendment provided a procedure for modifying or waiving a standard where its application may, in fact, diminish safety, or where it is shown that an alternative method of achieving the result of the standard exists which will provide at least equal protection to the miners. The Senate bill had no comparable provision.

The conference agreement adopts both of these House provisions in combined form by providing a procedure under which an operator or the representative of the miners may

petition the Secretary to modify or waive, after a hearing, a mandatory safety standard, including any exception thereto, if he determines (1) that an alternate method exists that provides at least equal protection to the miners, or (2) that the application of the particular standard will result in diminished safety to the miners. The hearing must be public and of record and the Secretary's decision is subject to judicial review under section 106 of the act.

5. The Senate bill provided that, where the safety standards in this title provide that the Secretary prescribe how certain actions, conditions, or requirements be carried out, the rulemaking provisions of 5 U.S.C. 553 will apply, unless the Secretary otherwise provides. The House amendment had no comparable provision. The conference agreement adopts the Senate provision with a modification to recognize that the Secretary of Health, Education, and Welfare also needs this authority. This provision is not intended to apply when a safety mandatory standard is being proposed. In lieu of the rulemaking provisions, the Secretary could utilize the procedures of section 101.

Section 303

1. The House amendment provided that there be maintained a minimum quantity of air at each working face of not less than 3,000 cubic feet a minute; that there also be maintained, in a mechanized mine, a minimum velocity of 100 feet per minute passing to within 5 feet of such face and over any miner operating electrical equipment therein; and that within 39 months after enactment, the dust level in intake aircourses must not exceed 0.25 milligram per cubic meter of air. The Senate bill contained no similar provision.

The conference agreement adopts the minimum air quantity requirement of the House amendment for the working face and directs that, within 6 months after enactment, the Secretary must prescribe for all mines, not just mechanized mines, the minimum quantity and velocity of air reaching each working face which is necessary to render harmless and carry away methane and other explosive gases and to reduce the level of respirable dust to the lowest attainable level. The conference agreement continues the authority found in the House amendment that the inspectors may require greater quantities and velocities on a mine-by-mine basis for both health and safety reasons. The Senate bill provided such authority in separate provisions for health and safety. The conference agreement also requires that, within 15 months after enactment, the Secretary must prescribe the maximum permissible respirable dust level in intake aircourses of each coal mine with the objective of reducing this dust to the lowest attainable level as quickly as possible after such levels are prescribed.

2. The Senate bill referred throughout this title to methane in regard to certain safeguards to prevent accumulations of this dangerous gas. The House amendment used the term "explosive gases" to include methane and other gases. The conference agreement adopts the term "methane", but also requires various safety measures to control these other explosive gases and directs the Secretary to propose within 15 months after enactment mandatory safety standards, in accordance with section 101, for preventing explosions from these other gases and for testing for accumulations of such gases.

3. The Senate bill, in the dust title, provided that the space between the line brattice or other approved devices be sufficient to permit an adequate flow of air to reduce the concentrations of respirable dust at each working face. The House amendment contained a similar provision in this title. The conference agreement combines these provisions in this section 303(c).

4. The House amendment required, as a minimum, one examination during a coal-producing shift of each working section for hazardous conditions. The Senate bill also prescribed what actions are to be taken if such conditions are found. The conference agreement adopts the language of the Senate bill with some technical changes.

5. The Senate bill authorized the inspectors to require the use of an approved methane monitor on electric face equipment. The House amendment directed that such a monitor be installed and kept operative on all electric face cutting equipment and loading machines and, when required by an inspector, on such other face equipment.

The conference substitute is patterned after the House amendment. It directs the Secretary or his inspector to require that a methane monitor, when approved as reliable by the Secretary at anytime after 90 days after enactment, shall be installed, when available, on electric face cutting equipment and loading machines at all mines, except that such monitor shall not be required on any such equipment prior to the date such equipment must be permissible at various types of coal mines under section 305(a) of this title. The conference substitute provides that the methane monitor is an additional backup device for detecting methane and should not be construed as a substitute for the other tests and testing devices required in this title for detecting and controlling methane.

There is clear evidence that reliable, substantially constructed, and effective low-cost methane monitors will soon be generally available. Present approved monitors, according to the Bureau of Mines, are not very reliable and are quite costly. Thus, the managers did not want to require those monitors to be installed on the operative date of this title. Instead the managers expect that the Secretary, in approving reliable and low-cost devices, will be guided by the state of present technology and its progress, or lack thereof, in producing effective, practicable, and economic devices.

It is expected that the Secretary shall apply standards of reasonableness with respect to the monitor, its weight and size relative to the face equipment and/or to the height of the coal seam, and its cost. He shall also take into consideration the extent or degree to which an increase in safety will result by requiring the use of such additional methane detection devices, particularly in the case of certain classes or groups of mines operated entirely above the watertable. It is also expected that these devices will be employed initially and primarily in those mines where, in the Secretary's judgment, the need for such additional safeguards is most urgent from the standard of safety.

6. The House amendment required that the operator of each mine submit a ventilation system plan and a methane and dust control plan to the Secretary for approval within 6 months after enactment. The plan must be reviewed by the operator and the Secretary at intervals of not more than 6 months. The Senate bill has no comparable provision. The conference agreement adopts the House amendment with technical changes.

7. The House amendment directed that each operator provide for the maintenance and care of the permissible flame safety lamps and, before each shift, it must be checked to insure that such lamps are in permissible condition. The Senate bill had no comparable provision. The conference agreement adopts the House language with a modification to cover all devices for testing methane, as well as these lamps.

8. The Senate bill provided for the separation of intake and return aircourses from belt and trolley haulages entries in the case of all mines, except where the entry system does not permit such separation, for the purpose of limiting the velocity of air coursed through these haulage entries to minimize hazards associated with fires and dust explosions originating in these haulageways. The House amendment required such separation from belt haulage entries and, in the case of new mines and in new working sections of existing mines, the Secretary, where there are trolley haulage systems, shall require a sufficient number of entries or rooms as intake aircourses in order to limit the velocity for the purposes mentioned above. The conference agreement adopts the House provision, but it is the intention of the managers that the Secretary carefully review this problem with a view to devising improved requirements for minimizing these hazards to the miners at the working faces from high velocities along belt and trolley haulageways on intake air.

9. The House amendment provided for the ventilation of areas of the mine while actively being pillared in a manner approved by the Secretary or his inspector. It also provided that, within 9 months after enactment, all mines which are or which have been abandoned must be sealed or be ventilated, as determined by the Secretray or his inspector. The Secretary could permit a further time extension of 6 months. It described how adequate the ventilation should be and the method of sealing. In new mines and new working sections, a plan requiring sealing would be required. It also defined the term "abandoned" very broadly.

The Senate bill contained similar requirements for abandoned areas, but did not cover partially pillared areas as the House amendment did. Also, the Senate bill required that when a split of air returns from an area ventilated by bleeders or their equivalent, such split must not contain more than 2.0 volume per centum of methane at the point it enters the other split of air.

The conference substitute is adopted after the House amendment.

Under this substitute, paragraph (1) of section 303(z) requires that areas which are actively being pillared must be ventilated in the manner otherwise prescribed under section 303. The determination of whether an area falls under this paragraph is one for the Secretary or the inspector to make. The conference objective is to provide the greatest safety possible to persons in the area that is actively being pillared through the dilution and removal of the methane and other explosive gases that build up in dangerous quantities not only where miners are working to extract the pillars in that area, but also in the area where the pillars in that area, have been extracted by such miners and where bleeders are used in that area. It is up to the operator and the Secretary or his inspectors to insure that this objective is achieved.

Under the conference substitute, paragraph (2) of section 303(z) provides that, within 12 months after enactment, all areas from which pillars have been wholly or partially extracted, and abandoned areas, shall be ventilated by bleeder entries or by bleeder systems or by equivalent means or be sealed. The conference agreement did not adopt the definition in the House amendment of "abandoned" because it was too broad and unworkable, but rather leaves it up to the Secretary or his inspector to determine on a case-by-case basis whether an area is, in fact, actively being mined or not in applying the provisions of this paragraph. The determination of which method is appropriate and the safest at any mine is up to the Secretary or his inspector to make, after taking into consideration the conditions of the mine, particularly its history of methane and other explosive gases. The objective is that he require the means that will provide the greatest degree of safety in each case. When ventilation is required, the Secretary or his inspector must be satisfied that the ventilation in such areas will be maintained so as continuously to dilute, render harmless, and

carry away methane and other explosive gases within such areas and to protect the active workings of the mine from hazards of such methane and other explosive gases. In other words, he must be assured that such ventilation will be adequate to insure that no explosive concentrations of methane or other gases will be in this area. As an additional safeguard when ventilation is required, the conference agreement provides that air coursed through underground areas from which pillars are wholly or partially extracted which enters another split of air shall not contain more than 2.0 volume per centum of methane, when tested at the point it enters such other split. The managers intend that this letter provision not be construed as permitting accumulations of methane near or in the explosive range in the pillared or abandoned areas on the basis that the methane in the return does not exceed such percentage, and also expect that the Secretary will establish a lower percentage as soon as technology permits. When sealing is required, such sealing shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine.

Under the conference substitute, paragraph (3) of section 303(z) provides that, in the case of mines opened on or after the operative date of this title, or in the case of areas developed on or after such date in mines opened prior to such date, the mining system shall be designed, in accordance with a plan and revisions thereof approved by the Secretary and adopted by the operator, so that, as each set of cross entries, room entries, or panel entries of the mine are abandoned, they can be isolated from the active workings of the mine with explosion-proof bulkheads approved by the Secretary or his inspector.

The managers expect the Secretary to take the lead in improving technology in this area of controlling methane accumulations in gob areas and to improve upon this important section 303(z).

Section 305

1. The Senate bill required, 16 months after enactment, that—

All electric face equipment at gassy mines be permissible;

All small electric face equipment at all coal mines, whether classified as gassy or not, be permissible; and

All large electric face equipment at mines not previously classified as gassy be permissible.

The Senate bill also provided that, in the case of mines not previously classified as gassy which are below the watertable or those which are above the watertable and which produce more than 75,000 tons of coal annually, such compliance date may be extended on a mine-by-mine basis for 3 years, if such large equipment is not available. In the case of mines not previously classified as gassy which are above the watertable and which produce less than 75,000 tons of coal annually, such large equipment must be permissible 39 months after enactment, and then the Panel can grant a further 2-year extension to comply.

The House amendment provided, in the case of gassy mines, that all electric face equipment must be permissible within 15 months after enactment with authority in the Secretary to extend this period for 1 more year based upon the availability of such equipment, and that, in all mines, small electric face equipment must be permissible in 15 months. In the case of mines not previously classified as gassy, large electric face equipment shall be permissible 4 years after enactment, but the Secretary may waive this requirement for a period of 2 years, and thereafter, on a mine-by-mine basis, if such equipment is not available.

The conference substitute adopts the Senate language with technical changes and with changes in the time requirements. It also deletes the tonnage limitation in the Senate bill. It requires that all electric face equipment at gassy mines and all such small equipment at all mines be permissible within 15 months after enactment. It also requires that, in the case of mines not previously classified as gassy which are below the watertable, such large equipment must be permissible in 15 months, but the Panel may grant extensions of time of not to exceed in the aggregate an additional 33 months if the Panel determines, based on a new application and after an opportunity for a public hearing, that the operator, despite his diligent efforts, is unable to comply with the permissibility requirement because of unavailability of permissible equipment. In the case of mines not previously classified as gassy which are located entirely above the watertable, one or more mine openings of which were made and connected with other openings prior to enactment, the conference agreement provides that such large equipment must be permissible within 51 months after enactment but the Panel can grant extensions, after an opportunity for a public hearing, of not to exceed 2 years on a mine-by-mine basis because of unavailability of such equipment.

In any case where a mine, not classified as gassy as provided in this section, is later found to be gassy under State law and such State law requires that all electric face equipment be permissible, such State law would control and all such equipment must then be permissible and be maintained in permissible condition and, of course, no permit could be issued by the Panel for that mine under this section.

2. The Senate bill provided that all power circuits, except energized trolley wires, and electrical equipment be deenergized before work is done on them. The House amendment also expected trouble shooting and testing and required that work on trolley wires must be performed by a person qualified to make repairs. When working on deenergized equipment and circuits, the Senate bill required that such work be done by or under the direct supervision of a competent electrician, while the House amendment required that it be performed by or under a qualified person.

The conference agreement adopts the House provision with the requirement that work on energized trolley wires must be done by a person trained to perform electrical work on such wires and to maintain them, and with the requirement that work on deenergized low-, medium-, or high-voltage circuits, except trolley wires, must be done by a qualified person or by a person who is trained to perform electrical work and to maintain electrical equipment under the direct supervision of a qualified person.

The term "qualified person" is defined in section 318 of the conference substitute. Such person must be qualified, in accordance with minimum requirements which the Secretary must prescribe, by training, education, and experience to be, in effect, an electrician. This definition avoids the vagueness and possible misconception of the meaning of the term "competent electrician," while at the same time, it continues the intent of the managers that the individual be qualified to perform this hazardous work. The conference language also recognizes that some persons, while not able to meet the requirements of a qualified person, may have sufficient training and experience to perform repair work on deenergized circuits and equipment under the direct supervision of a qualified person and on low-voltage trolley wires. The operator shall designate these persons and the Secretary or his inspectors must qualify them to insure that they meet this standard.

Section 306

The Senate bill permitted only one temporary splice in trailing cables and, when so spliced, they can only be used for a 24-hour period. The House amendment permitted two such splices and a third during a shift. The conference agreement adopts the Senate version.

Sections 307, 308, and 309

1. The Senate bill provided for a system of grounding of high-, low-, and medium-voltage circuits extending underground for resistance grounded systems. The House amendment contained similar requirements but also provided for the use of underground circuits where they are steel armoured or installed in grounded, rigid steel conduits. The conference agreement adopts the House version with some technical changes.

2. The Senate bill prohibited any work being performed on ungrounded, energized high-voltage lines whether on the surface or underground. The House amendment permitted repairs on energized surface high-voltage lines if certain specified procedures and safeguards are taken as prescribed by the Secretary prior to the operative date of this title. The conference agreement adopts the House version.

3. The Senate bill prohibited the movement of energized power centers and portable transformers. The House amendment also prohibited such movement, except when alternate sources of power to move such centers and transformers are not available the Secretary may permit them to be moved while energized if an equivalent or greater hazard may result from failure to so permit their removal. The conference agreement adopts the House version with technical changes.

4. The Senate bill required that low-, medium-, and high-voltage circuits include fail safe ground check circuit 4 months after enactment. The House amendment made the same requirement for low- and medium-voltage circuits 9 months after enactment. The conference substitute adopts the House approach applicable to such circuits, including high-voltage circuits, with authority in the Secretary to extend this time up to 12 additional months on a mine-by-mine basis where such devices are unavailable.

Section 311

1. The Senate bill required that fire suppression devices be installed on underground equipment within 16 months after enactment, and permitted the use of fire resistant hydraulic fluids in the hydraulic systems of unattended equipment. The House amendment required both in the case of hydraulic systems of unattended equipment and directed that such fluids be used in the hydraulic systems of other equipment unless fire suppression devices are installed. The conference agreement adopts the House version.

2. The House amendment required that within 5 months after enactment devices for giving a warning of a fire must be installed at suitable locations along underground belt conveyors. The amendment also directed the Secretary to prescribe a schedule for installing fire suppression devices on belt haulageways. The conference agreement adopts the House version.

Section 312

Both the Senate bill and the House amendment required the maintenance of a mine map. The Senate bill required that the map be confidential except for disclosure for certain specified persons. The House amendment directed that the Secretary of Housing and Urban Development receive a copy. The conference substitute provides that the map shall be made available to the Secretary and his inspectors, the Secretary of Housing and Urban Development, the miners and their representatives, operators of adjacent

mines, and to persons owning, leasing, or residing on surface areas of such mines or on areas adjacent to such mines, but that otherwise it shall be kept confidential.

Section 314

The House amendment provided that haulage cars acquired for a mine 16 months after enactment must have automatic couplers. Haulage cars without such couplers in use in a coal mine 3 months after enactment shall be equipped with such automatic couplers within 51 months after enactment. The Senate bill has no comparable provision. The conference agreement adopts the House provision.

Section 317

1. The Senate bill required that, when oil and gas wells are located, the operator must establish and maintain barriers around such wells in accordance with State laws, but the barrier must not be less than 300 feet in diameter unless the Secretary or his inspector permits a lesser barrier. The House amendment permitted a lesser barrier where such is found to be adequate to protect the miners and authorized the Secretary or his inspector to require a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such greater barrier. The conference agreement adopts the House version.

2. The Senate bill directed that the Secretary prescribe illumination standards within 21 months after enactment. The House amendment provided that the Secretary prescribe such standards after the operative date of the title. The conference agreement provides that the standards be prescribed within 12 months after enactment and all working places be illuminated by permissible lighting not later than 18 months after final promulgation of such standards under section 101.

3. Both the Senate bill and the House amendment provided at least two escapeways with at least one on intake air. The Senate bill required that they be continuous to the surface. The House amendment required that they be adequate to insure passage at all times of anyone in low or high coal, including a disabled person, and they must be continuous from the working section to the surface escape drift opening and, in the case of a slope or shaft mine, to the escape facilities to the surface. The House amendment required that escape facilities be immediately present at or in each escape shaft or slope. The conference agreement adopts the House provision but requires that escape facilities be ever present and operable at or in each escape shaft or slope so that they may be put into use with the minimum of delay and allow everyone to escape quickly.

In the case of new coal mines, the Senate bill required that escapeways on intake air be separated from belt and trolley haulage entries. The House amendment required such separation for their entire length to the working section, but the Secretary or his inspector may lessen or extend the separated entries so long as such extension does not pose a hazard to miners in the mine. The conference agreement adopts the House provision on the understanding that in limited situations, such as the case of longwall mining in some coal seams, a greater hazard to the miners may exist from roof falls or other hazards if such separation is required to the working section. Under such limited or similar circumstances, it may therefore be necessary to permit a lesser extension of the entries. Accordingly, the provision permits this exception to the general requirement, as well as authorizing the further extension of this separation to the working place or to the working face, where the Secretary or his inspector require it. As in the case of all other exceptions under this title, the findings of the Secretary or his inspector regarding the exception must be made available to the miners at the affected mine under section 301(d).

4. The House amendment required that devices to suppress gas ignitions from cutting bits on electric face equipment be installed when technologically feasible. The Senate bill had no comparable provision. The conference agreement adopts the House provision with a provision that such device prevent ignitions. As is the case under other standards where improved technology is needed to be developed, it is expected that the Secretary will take the lead in developing the technology.

5. The House amendment required when mining is undertaken under any body of water that the operator obtain a permit from the Secretary and provide adequate safeguards against caveins and other hazards. The Senate bill had no comparable provision. The conference substitute is patterned after the House provision, but is limited to new mines and new working sections of existing mines located under bodies of water considered sufficiently large by the Secretary to constitute an actual or potential hazard to miners in the mine, which was the intent of the House amendment. It also requires that no permit will be needed where the new working section is located under a reservoir being constructed by a Federal agency on the date of enactment of this Act and where the operator is required by such agency to operate in a manner that will adequately protect the safety of the miners. In all cases where such a permit is issued, or where no such permit is required, the operator must, of course, continue to comply with the other applicable safety standards prescribed by this title.

6. The House amendment directed that the Secretary require that developed and improved devices for monitoring and detecting unsafe conditions be utilized as they become available. The Senate had no comparable provision. The conference agreement deleted this provision because the Secretary can, should, and has the authority to require such improved devices and systems under section 101 of the act, as is the case in connection with other standards under this act.

7. The House amendment required that an adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine. The Senate bill had no comparable provision. The conference agreement adopts the House provision with technical changes. The managers intend that the Secretary of Health, Education, and Welfare prescribe guidelines in this area.

8. The House amendment provided for early retirement of Federal inspectors. The Senate bill did not have any comparable provision. The conference agreement deleted this provision as it raises general questions involved in pending legislation in both Houses.

Section 318

1. The House amendment, but not the Senate bill, defined the terms working face, working place, working section, active workings, and abandoned areas. The conference agreement adopts the House provision with technical changes.

2. The Senate bill defined the term permissible electric face equipment and required that the Secretary provide procedures for approving equipment as permissible including, where feasible, for field testing of such equipment to facilitate compliance with the provisions of section 305(a) of this title and approval and certification by an inspector. The House amendment had no comparable provision. The conference agreement adopts the Senate provision.

TITLE IV—BLACK LUNG BENEFITS

PART A

The Senate bill set forth certain findings relative to the need for, and desirability of, a benefit program for inactive miners, their dependents, and their surviving widows and children where such miners are disabled or died due to complicated pneumoconiosis. It also provided that it is the purpose of title V of the Senate bill to provide interim emergency health benefits to coal miners who are totally disabled and unable to be gainfully employed due to complicated pneumoconiosis, to widows and children of such miners, and to develop further information on the subject. The House amendment did not have such a statement of purpose. The conference substitute finds that there are a significant number of living coal miners who are totally disabled from pneumoconiosis arising out of employment in one or more underground coal mines; that there are survivors of such miners whose death was due to this disease, and that few States provide such benefits. It also states that it is the purpose of this title to provide such benefits and to insure that future adequate benefits are provided to coal miners and their dependents where disability or death occurs from such disease.

The House amendment defined the terms coal mine, complicated pneumoconiosis, dependent, and widow. The Senate bill had no similar provision. The conference agreement adopts the House language for widows and dependents. It also defines the terms pneumoconiosis, Secretary, miner, and total disability.

PART B

The Senate bill directed the Secretary of Health, Education, and Welfare to develop and promulgate disability benefits standards which would govern the determination of persons eligible to receive benefits and the procedure used in disbursing such benefits. The standards, among other things, are to take into consideration the length of employment in coal mines deemed sufficient to establish a claim. The standards are effective upon promulgation unless a later date of no more than 7 months after enactment is prescribed. The House amendment had no similar provision but defined the term complicated pneumoconiosis. The conference agreement directs the Secretary of Health, Education, and Welfare to prescribe by regulation, standards to determine whether a miner is totally disabled due to, or died from, pneumoconiosis. It provides that the regulations shall not be more restrictive than the regulations applicable to section 223(d) of the Social Security Act. It is expected that initially the criteria applied by the Secretary will be that now applied under section 223 (d) of that Act. Such standards would, among other things, require that the administrators of this program apply the best medical means available for ascertaining the disease in the miner.

The Senate bill provided for benefit payments to persons determined to be eligible by a State in accordance with the standards of the Secretary of Health, Education, and Welfare based upon the minimum monthly payment to which a Federal employee in grade GS–2, who is totally disabled is entitled. Under the Senate bill, the Secretary of Health, Education, and Welfare would make grants to cover the entire cost of such payments through June 30, 1971, and to pay one-half of such costs during the fiscal years ending June 30, 1972 and 1973. It authorized annual appropriations for those 3 fiscal years with a requirement for a proportionate reduction in grants and payments if appropriations are not sufficient.

The House amendment provided payments to miners totally disabled from complicated pneumoconiosis and to the widows of miners who suffered from complicated pneumoconiosis at the time of death. The disease must have arisen out of, or in the course of, the individual's employment in a coal mine. If he was so employed for 10 years or more, there is a rebuttable presumption that the disease so arose; if he was not, the individual must demonstrate that his disease so arose.

Anyone who suffered from this disease is deemed to be totally disabled and therefore eligible.

Under the House amendment, payments are based upon the minimum monthly payment to which a Federal employee in grade GS–2, who is totally disabled, is entitled at the time of payment under provisions of Federal law relating to Federal employees (sec. 8112, title 5, United States Code). In the case of total disability, the disabled individual is entitled to payment at a rate equal to 50 percent of such minimum monthly amount. The widow of a miner entitled to payment would be eligible to receive the same amount. The payment would be increased to allow for up to three dependents. The first dependent would increase the basic payment by 50 percent; the second dependent by 75 percent; and the third dependent by 100 percent. The maximum monthly payment, therefore, to which an eligible individual is entitled under this subsection is equal to the minimum monthly payment such Federal employee is entitled to.

Under the House amendment, the Secretary of Labor shall enter into agreements with the Governors of the States under which the State will receive and adjudicate claims under this subsection from its residents and under which the payments will be made. Each Governor will implement the agreement in any manner he determines will best effectuate the provisions of this subsection. If the Secretary of Labor is unable to enter into an agreement with a Governor or if a Governor requests him to do so the Secretary may make payments directly. When the Secretary of Labor has an agreement with a State he will make a grant to the State for the purpose of making the individual payments.

No claim would be considered unless it is filed (1) within 1 year after the date an employed miner received the results of his first chest roentgenogram as provided under section 203, or, if he did not receive such a chest roentgenogram, the date he was first afforded an opportunity to do so under that section, or (2) in the case of any other claimant, within 3 years from the date of enactment of this act, or, in the case of a claimant who is a widow, within 1 year after the death of her husband or within 3 years from the date of enactment of this act, whichever is the later.

The conference substitute provides that the program under part B would be administered by the Secretary of Health, Education, and Welfare who, based on the heretofore mentioned standards, shall provide benefit payments to miners for total disability from pneumoconiosis and to widows of miners whose death is due to this disease. If a miner who suffered or is suffering from the disease was or is employed in one or more underground coal mine for 10 or more years, there is a rebuttable presumption that his disease arose out of such employment and if a deceased miner was so employed and died from a respirable disease, there is also a rebuttable presumption that death was due to this disease. If a miner is suffering or suffered from a chronic dust disease of the lung based on certain specified medical evidence as defined in section 411(c)(3), there is an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to this disease. The benefit payments are to be made as provided in the House amendment; that is, in accordance with the minimum monthly payment to which a Federal employee in grade GS–2 is entitled for total disability. Benefits for miners are to be reduced by an amount equal to any payment which the miner or his widow receives under State workmen's compensation, unemployment compensation, or disability insurance laws due to disability of such miner, and the amount by which such payment to the miner would be reduced on account of excess earnings under the Social Security laws.

In the case of total disability of a miner, the claims must be filed on or before December 31, 1972. In the case of a widow, the claim must be filed within 6 months after death of her husband or by December 31, 1972, whichever is later. Benefits are payable to a widow due to death of a miner under part B if the miner was receiving total disability benefits prior to his death or if the death of the miner occurred prior to January 1, 1973. Also, the benefit program provides that no benefits shall be paid after December 31, 1972, for a miner who filed his claim after December 31, 1971. The House amendment provided that no benefit payments shall be made to residents of any State which, after enactment, reduces to persons eligible under this program the benefits it pays under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, and disability insurance, and which are funded by employer contributions. Benefit payments made under State programs funded by general revenues are not included in the maintenance of effort provision in the House amendment for the reason that they are not considered to be workmen's compensation, unemployment compensation, disability insurance programs as such programs are generally understood, and as they are intended to be understood within the context of this benefit program. Any changes in such payments or programs subsequent to the date of enactment, therefore, would not affect payments to the residents of such State under the House amendment. The Senate bill prohibited the making of benefit payments where a State reduced its benefits to an eligible person. The conference substitute adopts the House amendment without change and together with the above intent.

PART C

The conference substitute also provides that on or after January 1, 1973, benefit claims must be filed pursuant to applicable State workmen's compensation laws, except, in any period when miners or widows are not covered by any such law which provides adequate coverage for pneumoconiosis, they shall be entitled to claim benefits under this provision of the act. A State workmen's compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in a list of State laws found by the Secretary of Labor and published by him, in accordance with guidelines set forth in this provision, to be adequate. During any period after December 31, 1972, in which a State workmen's compensation law is not so included, the applicable provisions of the act of March 4, 1927, as amended, shall be applicable to an operator of an underground coal mine in such State with respect to death or disability due to this disease arising out of employment in such mine. During such period, the operator shall be liable for, and secure the payment of, benefits to the persons listed in section 412(a) as provided in part C of this title, except that no benefit payments shall be required for any such period seven years after enactment.

TITLE V—ADMINISTRATION

Section 501

1. Both the Senate bill and the House amendment contained provisions under which studies, research, experiments, and demonstrations will be carried on in the fields related to working conditions, prevention of accidents, and control of causes of occupational diseases in the coal mining industry. The House amendment contained a number of specific descriptions of particular matters to be investigated. A number of these have been adopted in the conference substitute, as well as one provision of the Senate bill which required research to develop new and improved sources of power for use underground which was not included in the House amendment. The House amendment required the Secretary of the Interior to distribute or divide the funds available for carrying out the section as equally as possible between himself and the Secretary of Health, Education, and Welfare. This provision is not included in the conference substitute because provision is made for appropriations directly to both. The House amendment also required that activities in the field of health be carried out by the Secretary of Health, Education, and Welfare and the activities in the field of safety be carried out by the Secretary. This House provision was included in the conference substitute.

2. Both the Senate bill and the House amendment authorized contracts and grants to public and private agencies and organizations and individuals to carry out research, experiments, demonstrations, studies, training, and education under this section and sections 301(b) and 502(a) without regard to limitations in other statutes on contracts and grants applicable to other programs of the Secretary. In addition, the Senate bill authorized such grants and contracts to carry out other education and study activities. The conference substitute adopts the provisions of the Senate bill in this regard.

3. The House amendment provided that no research can be carried out under the act unless all developments resulting from such research would be available to the general public, subject to such exceptions and limitations as the Secretary or the Secretary of Health, Education, and Welfare might find necessary in the interests of national security. The Senate bill did not contain this provision. The conference adopts the House provision but substitutes public interest for national security.

4. The Senate bill contained a provision which had no counterpart in the House amendment which provided for studies and research of matters involving the protection of life and the prevention of diseases in connection with persons, who, although not miners, work with or around the products of coal mines in areas outside of such mines and under conditions which might adversely affect their health and well-being. This provision is retained in the conference substitute.

5. The Senate bill authorized the appropriation to the Secretary of the Interior of funds to carry out his functions under this section and section 301(b) at an annual rate not exceeding $20 million for fiscal year 1970, $25 million for fiscal year 1971, and $30 million for fiscal year 1972, and each succeeding fiscal year thereafter. It also authorized a separate appropriation of such sums as may be necessary to the Secretary of Health, Education, and Welfare to carry out the responsibilities imposed upon him by the Act with respect to research in the field of health. The comparable provision of the House amendment authorized the appropriation of such sums as might be necessary to carry out the section. The conference substitute adopts the provisions of the Senate bill with technical changes.

6. The Senate bill authorized the Secretary to grant an operator, on a mine-by-mine basis, exceptions to any of the provisions of the Act for the purpose of granting engineering institutions an opportunity to experiment with new techniques and equipment to improve the health and safety of miners where it will not adversely affect their health and safety. The conference substitute adopts this provision with a modification to insure that its benefits will not be limited to engineering institutions but will be available to other accredited educational institutions. The Secretary, of course, may also conduct such experiments directly under his research authority.

7. The Senate bill authorized grants to public and private agencies, institutions, and

organizations, and operators or individuals for research and experiments to develop effective respiratory devices and other devices to carry out the purposes of the act. The conference substitute adopts this provision of the Senate bill, but limits it to the development of respiratory equipment.

Section 502

Both the Senate bill and the House amendment contain provisions relating to programs for the education and training of coal-mine operators, agents thereof, and miners. The Senate bill also directs the Secretary to provide technical assistance to mine operators, but no comparable provision was in the House amendment. The conference agreement adopts this provision of the Senate bill.

Section 503

1. The Senate bill provided Federal assistance to coal producing States in developing and enforcing effective health and safety laws and regulations applicable to mines in the States, and to promote Federal-State coordination and cooperation in improving health and safety conditions in the Nation's coal mines. It provided, that, in order to receive Federal assistance, the State must submit a plan designating the State coal mine inspection or safety agency as the agency for administering the plan and containing assurance that it will have authority to carry out the plan, gives assurances that an adequate staff will be employed, sets forth the plans, policies, and methods to be followed in carrying out the plan, provides for extension and improvement of the State's program for coal mine health and safety, and prohibits advance notices of inspections, contains the usual common provisions relating to fiscal control and fund accountability and for reports to the Secretary and meets additional conditions prescribed by the Secretary. The Secretary is authorized to discontinue the assistance under the plan if the State fails to comply with it or fails to give reasonable cooperation in administering this Act. If the State is aggrieved by the Secretary's decision to discontinue assistance under the plan, an appeal lies to the Court of Appeals for the District of Columbia. The Senate bill further provided that grants may be made where there is an approved State plan to carry it out, including the cost of training inspectors, and to assist States in planning and implementing other programs for the advancement of health and safety in coal mines. The Senate bill provided that the Federal grant may not exceed 80 percent of the cost of the program. It authorized the appropriation of $3 million for the fiscal year 1970 and $5 million for each succeeding fiscal year to carry out the program. It also required an equitable distribution of these funds among the States and for coordination between the Secretaries with the Secretary of Labor and Health, Education, and Welfare in making grants under the section.

The comparable provision of the House amendment provided for grants to coal mining States to assist them to conduct research and planning studies to carry out plans designed to improve their workmen's compensation and occupational disease laws and programs as they relate to compensation for pneumoconiosis and injuries in coal mine employment, and to assist the States in planning and implementing other programs for the advancement of health and safety in coal mines. The grants under the House provision would not extend beyond a period of 5 years following the effective date of the act and would be made only to States which have an approved State plan. The Secretary would approve State plans which provide for making reports to him and for fiscal control and fund accounting procedures, and assure that the State will not reduce its existing State programs or benefits, and meets other conditions which he may prescribe. The provision prevented the Secretary from disapproving a State plan without giving the State an opportunity for a hearing. The amount granted under the House amendment could not exceed 80 percent of the amount expended by it in carrying out the plan. The House amendment authorized the appropriation of $1 million for the fiscal year 1970 and each succeeding fiscal year for carrying out the section.

The conference substitute combines the provisions of both bills, but the requirement of a State plan is not included. Instead, the conference substitute requires the annual filing of an application for a grant. The conference substitute does give an opportunity for judicial review by the Court of Appeals for the District of Columbia of decisions of the Secretary when he disapproves a State application. As agreed to in conference, the amount authorized to be appropriated is $3 million for the fiscal year 1970 and $5 million annually thereafter for grants to be distributed equitably to coal producing States with approved applications. The amount of the grant to any coal mining State for a fiscal year is limited to 80 per centum of the sum expended by the State annually to carry out the grant application. The managers intend that the Secretary provide grants to States where there is actual coal production during the previous fiscal year for commerce.

2. The provision in the Senate bill providing for the development of facilities, as appropriate, to train Federal and State coal mine inspectors jointly is retained under the conference agreement with a modification to make it clear that it also provides for the construction of such facilities where needed.

Section 504

The Senate bill amended the Small Business Act to authorize loans (either directly or in cooperation with banks or other lending institutions) to assist small business coal mine operators in effecting additions or alterations in the equipment, facilities, or methods of operation on such mines to meet requirements imposed by this act if the Small Business Administration determines that such concern is likely to suffer substantial economic injury without such assistance. The Senate bill also permitted loans to be made or guaranteed under section 202 of the Public Works and Economic Development Act of 1965 for this new purpose. The corresponding provision of the House bill authorized the Secretary for 5 years after enactment to make loans to coal mine operators to enable them to procure or convert equipment needed by them to comply with the provisions of this Act. These loans would have had maturities set by the Secretary but not in excess of 20 years and would bear interest at a rate which would be adequate to cover the cost of the funds to the Treasury, the cost of administering the section, and probable loss. The Secretary would be required to use the services of the Small Business Administration. The conference substitute adopts the provisions of the Senate bill on this matter.

Section 505

Both the Senate bill and the House amendment contained provisions relating to qualifications and training of inspectors and other personnel. The Senate bill, unlike the House amendment, also waived the provision of the Revenue and Expenditure Control Act of 1968 relating to the number of employees for this program. Because of the clear need for more qualified inspectors and other personnel to enforce and administer this Act, the House amendment, with this provision of the Senate bill, is retained in the conference substitute.

Section 506

The Senate bill provided that nothing in the Act would be construed to supersede or effect workmen's compensation laws of the States or to affect common law rights, duties, or liabilities of employers and employees under specified State laws. No comparable provision was contained in the House amendment, and no such provision appears in the conference substitute.

Section 509

The Senate bill provided that the operative date of the interim health and safety standards would be four months after enactment. The House amendment provided that the safety standards be effective three months after enactment and that the health standards be effective six months after enactment. The conference agreement adopts the House provision with a modification noting that, where an earlier effective date is specified, such date shall control.

Section 511

The Senate bill required an annual report to the Congress by the Secretary and the Surgeon General. The House amendment also provided for separate annual reports by the Secretary and the Secretary of Health, Education, and Welfare but specified in greater detail the matters to be included in the reports. The conference agreement adopts the House language with technical changes. The managers intend that these reports be as informative as possible about the actions taken and not taken by the two Secretaries under this Act to achieve its purposes and, most particularly, to achieve compliance with its provisions.

Section 512

The House amendment provided for a study by the Secretary of the ways to coordinate Federal and State coal mine health and safety activities. The Senate bill had no comparable provisions. The conference agreement adopts the House provision.

Section 513

The Senate bill provided that in any proceeding involving the validity of the interim mandatory health and safety standards, no temporary restraining orders or preliminary injunctions restraining or enjoining such standard shall be issued pending a final determination of the issue on the merits. There was no comparable House provision. The conference adopts the Senate provision.

CARL D. PERKINS,
JOHN H. DENT,
ROMAN C. PUCINSKI,
AUGUSTUS F. HAWKINS,
PATSY T. MINK,
PHILIP BURTON,
WILLIAM H. AYRES,
JOHN N. ERLENBORN,
ALPHONZO BELL,
DOMINICK V. DANIELS,
JOHN M. ASHBROOK,
Managers on the Part of the House.

SCHOOL INTEGRATION PROBLEM

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

Mr. LOWENSTEIN. Mr. Speaker, it has been 6 weeks since the Supreme Court said that time had run out for racially segregated schools, and that school districts must implement integration plans "at once." That order was the exclamation point to the Kerner Commission warning, and to the hope of those Americans who do not want to preserve or create a dual society.

We are now at another critical juncture in the handling of the school integration problem, and since school integration is so clear a test of direction for the whole country, the implications of the choice we must soon make extend

across the land. It is not the fault of the present administration that it has inherited so great a problem, but its response has encouraged extremists of both races and has multiplied doubts about its intent. This in turn has compounded the problem and makes it essential that we turn our attention to the situation right away.

Is it not extraordinary that the Department of Justice, now armed with the most straightforward and explicit mandate that a unanimous Supreme Court could possibly issue, still has not filed one motion to implement the Holmes decision in any of the Mississippi counties where there are existing HEW plans? And this from the Department most celebrated for its devotion to law and order.

What is almost as remarkable is the fact that the Department of Justice refuses to take legal action requesting the courts to require a faster rate of desegregation in districts where it had previously supported 1970 or post-1970 terminal plans. Nor should anyone forget that the Department had previously interpreted "at once" to be consonant with the fifth circuit order requiring desegregation by the fall of 1970, an interpretation that resulted in private litigants having to assume the burden of enforcing the Supreme Court ruling—and in the Supreme Court overruling the fifth circuit immediately by issuing orders in six southern school districts to desegregate fully by February 1970.

How much longer can we allow this constitutional mandate to be ignored when we know by long experience that each further delay brings greater disarray? Yet on and on we go, into worsening mistrust and deeper divisions and frustrations.

The administration's backpedaling on school desegregation has already taken other tolls too: the lawyer's revolt in the Civil Rights Division of the Department of Justice, climaxed so foolishly by the forced resignation of Gary Greenberg, one of the most brilliant and courageous attorneys there; the crushing once again of the hopes of all Americans, black and white alike, who want to see this country do at last what we ought to have done so long ago; and, perhaps saddest of all, another semester's delay before thousands of black children in the South can begin to get equal opportunities for their education.

Mr. Speaker, I am introducing into the Extensions of Remarks today a compilation of actions taken and not taken by the Justice Department during the past year. This document was put together by my staff under the direction of a remarkable young attorney, Miss Marna Tucker. Anyone who takes time to study it will understand why so many of us are coming to the conclusion that the administration's behavior has been inexcusable. I shall soon recommend specific steps for the Congress to take, but in the meanwhile I hope there will be a growing realization that all Americans committed to the rule of law and to the democratic process must demand a change in the administration's attitude and policy.

If we choose the wrong road again at yet another critical juncture, we may seem pass the point of no return so far as avoiding the dire prophecies of the Kerner Commission are concerned.

Mr. Speaker, the material referred to in my remarks on the floor is as follows:

REPORT ON THE ENFORCEMENT OF CONSTITUTIONALLY REQUIRED SCHOOL DESEGREGATION BY THE U.S. GOVERNMENT: JANUARY 20, 1969—DECEMBER 1, 1969

(Prepared by the Office of Congressman ALLARD K. LOWENSTEIN)

On October 29, 1969, the Supreme Court of the United States held that the constitutional "obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools."[1] The circumstances leading up to that historic ruling and the subsequent actions of the United States relative to the enforcement of the constitutional rule constitute the subject matter of this document.

I. Introduction.—In August and again in September of this year, the attorneys of the Civil Rights Division of the Justice Department charged that the actions of the Administration were inconsistent with "clearly defined legal mandates." An examination of the facts as set forth in this report lends substance to this serious allegation and further demonstrates that what began as a policy of confusion, involving an *ad hoc* approach to individual school desegregation cases, has recently manifested itself as a "major retreat"[2] in federal enforcement of constitutionally required school desegregation.

While the Supreme Court has said that school districts must develop desegregation plans that "promise realistically to work now,"[3] and has ordered implementation of such plans "at once,"[4] the President indicates that the civil rights enforcement policies of his Administration look toward achieving a middle ground between compliance with the law and disobedience of the law:

It seems to me that there are two extreme groups. There are those who want instant integration and those who want segregation forever. I believe that we need to have a middle course between those two extremes.[5]

The effects of such a policy are certain to be disastrous, imperilling our constitutional system and the procedures therein provided for the vindication of equal protection of the laws, undermining the position and influence of courageous white Southerners and civil rights workers who endangered life and limb by arguing the necessity of compliance with the law in hostile communities, destroying the effectiveness of the civil rights lawyers in the Department of Justice who have for years continued to make the case for the achievement of integration through the orderly processes of law, and crushing the hopes of those Americans, black and white, alike who do not want to live in a segregated, dual society.

This Administration's policy of non-enforcement of politically unpopular laws has put the constitutional rights of people on the market place of political barter. The concept of equal protection of the law must never be allowed to be bought and traded like so many highways or dams.

A retreat in civil rights enforcement activity by the federal government must ultimately impair the ability of the judiciary to vindicate constitutional and statutory rights. If the judiciary as a constitutional institution cannot accommodate change because its decrees will not be enforced, then one must fear that other methods will be resorted to in order to achieve constitutionally-designated rights. That possibility is made all the more certain because the Administration's attitude has had the effect of generating the hope among those who would disobey the law that their resistance will prove profitable. One must inevitably ask how the Administration can demand of the young citizens of this nation respect and obedience for all laws, no matter how unpopular, when the Administration itself chooses not to enforce politically unpopular laws.

II. The January 20–July 3, 1969 Period.—From almost its first day in office this Administration demonstrated a softness on school desegregation. During this initial five month period its actions were highly confusing and contradictory. It was apparent that there was no overall, clearly defined policy. In a number of cases, decisions were made which indicated a general lattitude on the part of Administration officials that the United States should ease the pressure it had been previously exerting on school districts to eliminate racially designated dual school systems by September, 1969.

Mr. Jack Greenberg, Director-Counsel of the NAACP Legal Defense and Education Fund, Inc., issued a statement on September 9, 1969, which included the following chronology of Administration actions (pages 5–6):

January 29—Five Southern Districts about to be terminated are given a 60-day period of delay by Secretary Finch. If the districts come up with acceptable plans, they will receive lost funds retroactively.

March 10—Secretary Finch's interview in *U.S. News and World Report* alluded to some impending change in the guidelines. In addition the Secretary was quoted as saying that HEW must retain its enforcement powers: "We cannot turn (the whole enforcement-compliance field) over to the Justice Department now because we have built up a certain momentum in education, in terms of getting school districts to recognize that a . . . national goal has been set. If you were to chop off everything now in my department, just let Justice handle compliance . . . I think a lot of this momentum that has been built up would be lost."

March 14—General Counsel designate Robert Mardian sends Secretary Finch a memorandum advocating among other things that HEW might permit an extension beyond the previously established 1969 target date and that this policy could be implemented without any particular public announcement.

March 18—Civil Rights Leadership Conference received assurance from Finch that there will be no change in the guidelines.

March 24—Secretary Finch disavows Mardian memorandum.

April 15—The *Washington Post* reports that Administration sources claim that the guidelines are being "revamped" because they are "vague and ambiguous." Secretary Finch and Attorney General Mitchell reportedly attending meetings at the White House on the guidelines.

April 22—Leon Panetta's letter in response to Jack Greenberg's letter to Secretary Finch: "The Department is not contemplating any changes in the guidelines at this time."

May 16—Leon Panetta, in a speech in Atlanta, said: "Why can't we continue to use free choice? . . . The answer is that the Supreme Court ruled against it . . . HEW policies are controlled by that decision."

May 31—HEW submits two year plans to South Carolina Federal Court giving 21 districts another year of freedom of choice.

June 20—Jerris Leonard commented that the Administration's position is going to be that districts would be required to desegregate by the target deadline "where that was possible." He was also quoted as saying "It's wrong to set arbitrary deadlines." (Washington Post, June 20.)

June 28—Secretary Finch quoted as say-

Footnotes at end of article.

ing there would be no relaxation of the guidelines. (New York Times, July 1.)

July 1—Secretary Finch proposed to the White House that a new policy statement on the school desegregation guidelines contain no provisions for more time to comply with the law. (New York Times, July 1.)

The most significant indicator of Administration intentions was the South Carolina school desegregation cases.[6] In the South Carolina cases HEW Title IV officials initially prepared plans calling for the complete elimination by September, 1969, of the dual system in 18 of the 21 counties involved. HEW prepared these plans under an order of the district court which designated the agency as a master to perform this function. After conversations with members of the South Carolina congressional delegation, senior HEW officials ordered that the plans for 14 Negro majority districts be redrawn so as to allow yet another year for the transition from dual to unitary systems.

Although the implementation of integration plans involves much sensitivity and emotion, the preparation of such plans to eliminate dual systems is a mechanical and technical task. Because HEW was appointed by the court to prepare such plans as an impartial master, it would be inappropriate for any type of pressure to be exerted to influence the master in his duty.

When these plans were introduced in court, attorneys from the Civil Rights Division of the Justice Department were ordered to defend them in court without regard to their professional judgment that the plans were inadequate under the Constitution. Indeed, United States District Judge Robert W. Hemphill told one of the government lawyers that in his view the plans would not stand up in the Fourth Circuit Court of Appeals.

The government has not appealed any of the cases in which two-step plans were approved. Some of the South Carolina district judges have not yet entered orders in these cases so that some of the school districts are not even obliged by court order to integrate in September 1970. Here, the government has taken no action in court. The question which inevitably comes to mind in view of the recent Supreme Court decision in the Holmes County case is whether the United States will seek to have these 21 South Carolina school districts eliminate their dual systems "at once."

A further indication of the degree to which the Administration would be prepared to accede to outside pressures in making civil rights law enforcement decisions is the case of *United States* v *Saluda County Board of Education*. In that case, the Eastern Section of the Civil Rights Division recommended in the early spring that suit be brought against Saluda County, South Carolina, in order to bring about meaningful school desegregation. Assistant Attorney General Jerris Leonard returned the justification memorandum and the proposed complaint, noting on the former that he had been in contact with Senator Thurmond's office and that they had asked that the government hold off the litigation in order to allow them the opportunity to work out a compromise. Finally, about a month later suit was brought. It appears that Mr. Leonard now regualry follows a policy of informing the offices of the pertinent Senators of potential school district defendants.

In Title IV proceedings it is certainly appropriate that affected legislators be contacted to participate in the negotiations which could lead to the correction of conditions which may violate the law. A law suit is only contemplated when negotiations have completely broken down. But in the Saluda County case, the practice adopted, and carried out in all subsequent cases of informing legislators after negotiations have broken down and suit is contemplated extends the negotiation time beyond a point where it may serve a useful purpose. This policy can only lead to more delay, and it opens the door to pressures which may not be appropriate.

III. The July 3 Statement of Attorney General Mitchell and Secretary Finch.—

The July 3 Mitchell-Finch statement on school desegregation declared that desegregation plans "must provide for full compliance now—that is the 'terminal date' must be the 1969–70 school year." (Statement, p8.) Stating that some districts might require a "limited delay" in achieving full desegregation, the statement continued (*ibid*):

In considering whether and how much additional time is justified, we will take into account only bona fide educational and administrative problems.

The Attorney General and the Secretary of Health, Education, and Welfare then asserted that (*ibid*):

Additional time will be allowed only where those requesting it sustain the heavy factual burden proving that compliance with the 1969–70 time schedule cannot be achieved; where additional time is allowed, it will be the minimum shown to be necessary.

In addition to articulating a policy of limited delay, the July 3 statement also indicated that the Administration was going to de-emphasize Title IV procedures, the most effective weapon in the fight to integrate schools—viz., administrative proceedings leading to the termination of federal financial assistance—in favor of the less successful and slower litigation approach.[7] Of this policy to rely less on the threat of HEW fund cut-offs and more on litigation, the Civil Rights Commission said that such an emphasis "can be expected to slow the pace of school desegregation."[8]

The "limited delay" approach was hardly on the paper before the Administration asked for a "wholesale delay" in the pending cases in the State of Mississippi. On one hand, Leon Panetta, the Civil Rights Administrator for HEW, stated at a July 3 news conference that no more than 20 school districts would be allowed additional time to desegregate under the "limited delay" concept. On the other hand, shortly thereafter, the Justice Department sought a delay of 33 districts in Mississippi alone on implementations of integration plans, without so much as distinguishing between school districts, some of which had finally expressed a willingness to implement the plans.

On July 3, 1969, in New Orleans, the Fifth Circuit Court of Appeals handed down its opinion in the case of *United States* v. *Hinds County Board of Education*, involving 33 Mississippi school districts. The Court, at the request of the Department of Justice, had entered an order requiring the school districts to cease operating freedom-of-choice plans and to convert to a unitary system by September 1969. It was the government's change of position in that case—from supporting integration by September 1969 to advocating delay for still another year—which led the Civil Rights Commission to characterize Administration policy as a "major retreat" in the enforcement of school desegregation and which provided the "revolt" of the attorneys in the Civil Rights Division.

IV. The Mississippi Case.—The history of school litigation in Mississippi goes back many years. Suffice it to say that when the Supreme Court ruled in *Green* v. *County School Board*, 391 U.S. 430 (1968), that school districts were under a constitutional obligation to develop desegregation plans which would eliminate the dual system "*now*," there was but token integration of the schools in any of the 33 districts. In the summer of 1968 the United States petitioned the Fifth Circuit Court of Appeals to enter orders requiring the elimination of the dual system for the 1968–69 school year. The request was denied, but the court sent the cases back to the district court with specific guidelines for the evaluation of the freedom-of-choice plans and with instructions that the cases be treated expeditiously and given the highest priority.[9] Notwithstanding these admonitions, the district court did not rule until May 1969, and then it upheld the freedom-of-choice plans. The United States moved almost at once in the Fifth Circuit for summary reversal and expedited consideration. It was pursuant to the government's insistence upon implementation of new plans for the 1969–70 school year and its assurance given in open court on July 2 that the job could be done[10] that the Fifth Circuit entered its desegregation order of July 3.[11]

The July 3 order required HEW to develop desegregation plans in co-operation with school officials. The plans were ordered to be filed in the district court by August 11, 1969, and that court was required to rule on the plans and order implementation of new plans by September 1, effective for the 1969–70 school year. Yet, on August 19, 1969, HEW and the Department of Justice abandoned the plans that had been developed and filed in the district court and requested from the Fifth Circuit a three-month delay for the filing of new plans without calling for any new date for actual implementation of the plans.

The sequence of events leading to the withdrawal of the plan was as follows:

A team of 27 educators from HEW under the direction of Dr. Gregory Anrig,[12] spent the month of July preparing the plans. The plans were submitted to Dr. Anrig for review by the first of August. Dr. Anrig concluded his review by August 3, and decided to present the plans to the school boards for their consideration on August 5 and then submit them to the district court on August 8. However, on August 5, Dr. Anrig received a call from a member of the White House staff instructing him not to submit the plans to the school boards until further notice. It should be noted that the Senate vote on the ABM system was held on August 5.

The plans were actually submitted to the school boards on August 8 and were filed in district court on August 11, HEW's plans called for complete desegregation, including an end to the freedom-of-choice method of student assignment, in all but three of the 33 school districts for the 1969–70 school year.

Some time during the latter part of July and early August, Senator John Stennis of Mississippi and other members of the Mississippi congressional delegation discused the case directly with President Nixon.[13] Senator Stennis reportedly expressed his concern that desegregation this fall would provoke chaos in Mississippi and that he would feel compelled to return to his constituents during their time of travail, imperiling all matters pending in the Senate Armed Services Committee. The President referred the Senator to Messrs. Finch and Mitchell. Between August 15–17, Secretary Finch reconsidered the HEW plans and after consulting with Attorney General Mitchell a decision was made to withdraw the plans. Assistant Attorney General Jerris Leonard was contacted and asked to formulate the method for withdrawing the plans.

On August 19, Secretary Finch, not a party in the litigation, sent a letter to the three Mississippi district judges and to Chief Judge Brown of the Court of Appeals requesting the delay.

The appropriateness of Secretary Finch sending such a letter should be questioned. First, Secretary Finch, representing the Department of HEW, the court-appointed master to develop the plans, had no legal standing to ask for a delay by the court. Secondly, the letter was an extra-judicial act and copies of the letter were not sent to any of

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the parties to the proceedings (i.e., school officials, NAACP Legal Defense Fund, or any lawyers in the Civil Rights Division—excepting Jerris Leonard). Thirdly, the district court had no jurisdiction to grant the delay because the Fifth Circuit in its order to the district court outlined and limited what the district court could and could not do.

The Secretary asserted without the recitation of a single fact, that implementation of the plans would result in a "catastrophic educational setback" for the school children of the state and that chaos and confusion would result if the plans were put into effect in the few days remaining before the new school term opened.

The government was scheduled to appear in court on August 21 to defend the HEW plans. Dr. Anrig had written to the district judges on August 11, stating that each of the "plans is educationally and administratively sound, both in terms of substance and in terms of timing." Civil Rights Division attorneys, in preparing to defend the plans, were taking affidavits from Office of Education personnel supporting Dr. Anrig and attesting to the soundness of the plans. On the morning of August 20, Robert T. Moore, deputy chief of the Southern Section of the Civil Rights Division, visited with district judges Walter Nixon and Dan M. Russell, Jr., and told them that despite Hurricane Camille the government was prepared to proceed. Mr. Moore did not at that time know that the plans were to be withdrawn; however, the judges had already received Secretary Finch's letter and had been visited by Vice President Agnew and Senator Eastland who were in Mississippi observing hurricane damage. Later that afternoon, only hours before he was to go to court to defend the plans, Mr. Moore was telephoned by Jerris Leonard and told of the action that had been taken. Mr. Leonard asked Mr. Moore to prepare the necessary papers and to ask the court for delay. When it became apparent that Mr. Moore was reluctant to become the first government attorney to ask for a delay in school desegregation, Mr. Leonard decided to present the case for the government. Moore, therefore, requested a continuance from the court, and a hearing was scheduled for August 25 in Jackson, Mississippi.

The government had great difficulty in obtaining witnesses for the August 25 hearing who would testify in support of Secretary Finch's request for delay. Dr. Anrig, for example, would not testify in support of the Secretary's request. The two government witnesses who testified did not disavow the soundness of the plans. Indeed one, Henry Sullens, had previously signed affidavits attesting to the soundness of the plans he had worked on. Rather, they testified that the government sought the delay because if they had more time to study and validate the plans they might be more sound and that immediate implementation would result in chaos and confusion because of community opposition to desegregation.

The district court recommended that HEW be given leave to withdraw its August 11 plans, and the Fifth Circuit granted the delay on August 28, 1969. On August 30, 1969 the NAACP Legal Defense and Education Fund, Inc., petitioned Mr. Justice Black for a stay of the Court of Appeals order. The application was denied but Justice Black strongly urged the Legal Defense Fund to seek review by the full Court. The Court granted *certiorari* and set the case for an expedited hearing on October 23, 1969. On October 29, the Court unanimously reversed the order granting the delay.

V. The Revolt in the Civil Rights Division.—As a result of the government's actions in the Mississippi case, a group of 65 lawyers in the Civil Rights Division under the leadership of senior appeals attorney Gary J. Greenberg, organized a protest movement which, on August 29, 1969, presented a statement of views to President Nixon, Attorney General Mitchell and Assistant Attorney General Leonard. The document reads:

We, the undersigned attorneys in the Civil Rights Division, are gravely concerned by events of recent months which indicate to us a disposition on the part of responsible officials of the federal government to subordinate clearly defined legal requirements to non-legal considerations when formulating the enforcement policies of this Division.

We are of the view that the decision to withdraw desegregaion plans submitted by the United States Office of Education in a group of Mississippi school cases is a clear example of the subordination of the requirements of federal law to other considerations.

Based on our experience, we are convinced the decision reflects a disregard for the merits of each case. Careful study by attorneys directly involved, including consultation with Office of Education personnel, led them to the conclusion that the plans filed were sound and capable of implementation.

It is our fear that a policy which dictates that clear legal mandates are to be sacrificed to other considerations will seriously impair the ability of the Civil Rights Division, and ultimately the Judiciary, to attend to the faithful execution of the federal civil rights statutes. Such an impairment, by eroding public faith in our constitutional institutions, is likely to damage the capacity of those institutions to accommodate conflicting interests and insure the full enjoyment of fundamental rights for all.

We recognize that as members of the Department of Justice, we have an obligation to follow the directives of our departmental superiors. However, we are compelled, in conscience, to urge that henceforth the enforcement policies of this Division be predicated solely upon relevant legal principles. We further request that this Department vigorously enforce those laws protecting human dignity and equal rights for all persons and by its actions promptly assure concerned citizens that the objectives of those laws will be pursued.

On September 18, some three weeks later, Mr. Leonard replied to the lawyers on behalf of the Administration, saying, in part:

"This Administration is determined to achieve the Constitutional goal through a sympathetic approach to the problems of all persons affected, through hard work, through persuasion and leadership, backed by the use of federal coercion when it is needed. Thus, for example, we will as a general rule use the technique of negotiation and conciliation before invoking coercive remedies. The simple philosophy of it was well expressed quite a long time ago in a different context: 'speak softly and carry a big stick.' . . .

Consistent with our concern for the problems of all people in our readiness to help school boards and communities, in whatever way we can, with the problems they see connected with the desegregation of their schools. It is true that courts have said that in the desegregation process community attitudes are legally irrelevant. It is perfectly right for courts to say that, since they cannot go out and deal with those problems. But I do not think that excuses us as lawyers, or the federal government, from finding ways to deal with and to help solve those problems. They are real problems; they are practical problems; and I think we would be derelict by closing our eyes to them with the citation of cases.

* * *

Finally, the question has been raised as to the impact of political pressures on law enforcement. I think all of us realistically must recognize that all government agencies are constantly subjected to political pressures from all sides of the political spectrum. This has been true throughout history, and will continue to be true. The real question then is whether decisions are sound; and in the decision-making process in the enforcement program of this Division, I intend to exercise my best judgment . . ."[14]

The attorneys responded to this reply on September 29, by adhering to their point of view:

As line attorneys in the Civil Rights Division, we believe the reply indicates an intention to continue with the policy of civil rights law enforcement toward which our August 29 statement was directed, a policy which, in our view, is inconsistent with clearly defined legal mandates.

On the same day Mr. Leonard held a news conference to denounce the position taken by the attorneys.[15] It was during that news conference that Mr. Leonard also stated that even if the attorneys were correct in their assessment of the law's requirements and the Supreme Court should so rule, "nothing would change." Two days later on October 1, the leader of the revolt, Gary Greenberg, was forced to resign.

Such policies have put the civil rights lawyers in a precarious position. One example is the situation faced by Mr. Greenberg on September 10, 1969, in the Eighth Circuit Court of Appeals, when he argued for the Government in the case of *United States* v. *Lovell.*

In August 1968, the Warren School District in Arkansas agreed with HEW to implement a desegregation plan other than free choice beginning in September 1968. However, a group of white residents procured a restraining order from a state court enjoining implementation of the new plan. The United States sued to set aside the state court injunction and to insure that the new plan would be put into effect. The federal district court set aside the state order, but instead of requiring implementation of the HEW-approved plan, the court permitted the schools to continue operating under the freedom-of-choice plan. HEW was also required to continue its federal funding of the school district. The Justice Department appealed the section of the order sanctioning the continuation of the freedom-of-choice plan.

The court was, of course, aware of the delay that the government had sought in the Mississippi case. The judges questioned Mr. Greenberg trying to see if there was any distinction between the cases. The Fifth Circuit, prior to the government's request for delay, had ordered HEW desegregation plans to go into effect in the fall. The Eighth Circuit, not wanting to be put in the same position of ordering implementation of desegregation plans, and then having the government change its mind, asked Mr. Greenberg if he could guarantee that if the court ordered immediate integration the Attorney General "would not pull the rug from under us?" While Mr. Greenberg assured the court that the government would not reverse itself in the Arkansas case and argued that the Arkansas and Mississippi cases were unrelated, he was pressed for his views on the Mississippi delay. Mr. Greenberg responded by referring the court to the press coverage of the attorney's protest in the Civil Rights Division and indicated that because of his involvement in that movement he could not be expected to defend the government's actions in the Mississippi case.

Mr. Greenberg's forced resignation was based in part on his failure to defend the government's action in seeking delay in Mississippi before the court in St. Louis. Yet, having come to the conclusion that the delay could not be justified under the law, the question must be asked if taking a position in defending the request for delay would have constituted a violation of Mr. Greenberg's oath of office and of his professional responsibilities as a member of the bar.[16]

The dismissal of Greenberg coupled with the reorganization of the Civil Rights Division will have the effect of suppressing fu-

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ture criticism of the Justice Department policy and provides an opportunity for punishing dissident lawyers by placing them in non-controversial sections of the Unit. The Civil Rights Division had been broken down into geographical units since passage of the 1964 Civil Rights Act. The new reorganization will divide the Unit by subject—fair employment, school desegregation, voting and public accommodations, fair housing and criminal interference.

VI. Enforcement of the Holmes County Decision.—To date the United States government made no effort to enforce the Supreme Court decision that dual school systems must fully desegregate "at once". The Department of Justice has not yet filed a single motion for *Holmes County*—relief in any of its school desegregation cases. In the Mississippi case, the government's proposed order, submitted to the Fifth Circuit, envisioned a four-stage process for the development of new plans by the school districts, thus ignoring the existing HEW plans. Furthermore, the proposed order specified no dates for the submission of new plans and objections thereto and provided for no implementation date.[17]

The United States refused to make any commitment on enforcing the Supreme Court order and left that determination up to the Circuit Court.

VII. Whitten Amendment.—In August 1969, the House of Representatives passed the Whitten Amendment.

It provides:

Sec. 408. No part of the funds contained in this Act may be used to force busing of students, the 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 parent.

S. 409. No part of the funds contained in this Act shall be used to force busing of students, the abolishment of any school or the attendance of students at a particular school as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

If passed by the Senate and signed by the President, this amendment would restrict the manner in which HEW could enforce Title VI of the Civil Rights Act of 1964. In effect, it would forbid HEW from forcing those school districts which have not yet been placed under school orders to abandon freedom-of-choice desegregation plans as a condition for receiving Federal financial assistance.

The Administration took no position in regard to the Whitten Amendment, even with full knowledge that freedom-of-choice plans are ineffective in integrating schools, and the knowledge that the pace of desegregation is far faster in school districts operating under HEW guidelines than in districts operating under court orders, while the HEW appropriation bill was pending in the House. Belatedly, Secretary Finch announced opposition, but, to date, the Administration has failed to undertake extensive efforts to insure the defeat of the legislation.

VIII. Conclusion.—In a recent address delivered in Cleveland, Gary Greenberg analyzed the various position papers and actions of the Administration and outlined the civil rights enforcement policies of the Administration. He said, in part:[18]

"First, Administration actions have been premised on the conviction that civil rights law enforcement should be designed for the achievement of a middle ground between instant integration and segregation forever, between the immediate abandonment of discriminatory practices and perpetual discrimination. Thus, in cases where investigation revealed facts which demonstrated that the law was not being obeyed the emphasis has not been on bringing about immediate compliance through the application of pressure. The Administration's approach has been to stress persuasion, negotiation and conciliation with litigation and/or administrative termination procedures as a last, painful resort, and too often negotiation and conciliation have meant compromise. . . . The filing of school desegregation suits have been delayed for weeks in order to permit legislators sympathetic to the doctrine of segregation forever an opportunity to attempt to work out a compromise.

Second, in making decisions as to the cases which should be brought, how cases should be pursued and the relief to be requested of the courts, the Administartion considered the decree of hostility or opposition involved and has tailored its actions in such a manner as to recognize and lend legal relevance to that opposition. Thus, the pace of school desegregation was tied to the length of time required to institute and complete preparatory programs designed to persuade hostile parents, students, teachers and school officials that they should comply with the Constitution. As such, time limitations and deadlines were ruled out and requests for delay were considered legitimate and were regularly granted.

Third, the administrative and logistical problems involved in achieving compliance with the law, that is to say, the problems of those in violation of the law, have been given priority over the demands of the victims of unlawful conduct that their rights be fully vindicated at once.

Fourth, within the statutory framework of possible methods by which to achieve compliance with the law, the Administration has expressed a marked preference for the litigation approach—after extensive conciliation and negotiation efforts have failed—rather than administrative procedures leading to the termination of federal funds or contracts. Thus, the Administration has relegated the most effective pressure tactic to a secondary role and opted for a method wherein delay has been an inherent problem.

Finally, the Administration has promulgated a new standard by which to evaluate law enforcement decisions, namely, not whether they bring about compliance with the law, but, rather, whether they are "sound". The Administration has frankly acknowledged that political considerations and pressures are a factor to be considered when deciding whether a particular law enforcement decision is "sound." Thus, within this decision-making context, I suppose one can conclude, as the Administration did, that it was a "sound" decision to delay school desegregation in Mississippi in order to retain the support of the Mississippi congressional delegation, especially Senator Stennis, for ABM and the defense appropriations bill. But, of course, the Judiciary applies a very different test . . . .

The Administration's policies must encourage resistance and make compliance with the law more difficult to achieve. At a time when the judicious application of pressure and a total commitment of the resources of the federal government are essential, the rhetoric and actions of Messrs. Nixon, Mitchell, Finch, and Leonard have spawned the hope that resistance will continue to prove profitable. This hope, which can only in the end delude its adherents, will make it infinitely more difficult to bring about obedience to the law. Specifically, Mr. Leonard tells us that a Supreme Court decision would change nothing, he is inviting resistance. When Mr. Leonard tells us that the Administration is sympathetic to the demands of a shouting white mob who seek to close schools rather than integrate, he makes it clear that open hostility will reap a reward of delay. The invitation to reopen the era of "massive resistance" is inherent in such an attitude, and the task of achieving compliance with the law becomes all the more difficult.

The Administration's policies have undermined the position and influence of those who have counseled compliance with the law and who have argued that integration now (be it of schools, unions, or public accommodations) is the only course which can be profitably followed. These men have been sacrificed and the Wallaces, Thurmonds, and Stennises have been raised to new plateaus of influence.

Surely political considerations have no place in the decision making process when constitutional rights are at stake. The enforcement of constitutional rights are at stake. The enforcement of constitutional rights should not be traded off for the political advantage of the party in the White House . . . In matters of law enforcement it is the law which should dictate the results, not powerful Senators or public opinion polls.

Finally, Mr. Greenberg outlined his view of the obligations of the federal government in light of the *Holmes County* decision.

The President and the Attorney General have pledged that the Administration will play a leadership role in overcoming the problems which arise from the decision. But while the Administration has thankfully eschewed a Jacksonian approach, it has only taken a small step forward. Leadership in this matter requires a clear and unequivocal commitment of federal resources to seeing that the job of implementation is accomplished with a minimum of problems. The focus must be on implementation—not on the problems we face. The position of the United States must be that implementation will be achieved regardless of the problems and that all the problems which may arise are soluble. The Administration . . . should canvass all its school cases and move expeditiously in every case in which the dual system continues to exist. The necessary initial actions such as filing motions for *Holmes County* relief should be taken . . . with the goal being that by January 1, 1970, the dual system has been eliminated in every case to which the United States is a party. If the Administration is firmly committed to this course of action, if it is made clear that in no case will resistance be countenanced, if the President and other responsible political leaders urge compliance and cooperation, then the job will be accomplished with a minimum of disruption. The classroom lessons that may be lost in the changeover will be more than compensated for by the education all the children will receive in the meaning of American constitutionalism.

Only if there is equivocation and hesitation, only if the government reads the decision narrowly and fails to seek an even-handed application of the new constitutional rule can the dire predictions of the extreme segregationists come to pass. I call upon the President and the Attorney General to tell the American people that implementation of the new constitutional rule will be sought at once, and without exception, in every school district in the land.

To date, there has been no indication that any effort will be made by the federal government to enforce the constitutional rule that school districts must desegregate at once. Should the Administration persist in this attitude, the fear of the attorneys in the Civil Rights Division that such a policy will erode "public faith in our constitutional institutions" and "damage the capacity of those institutions to accommodate conflicting interests," thus destroying their effectiveness as a vehicle for the vindication of equal rights for all, is likely to become a bitter reality. Should that occur, there will be no way, short of armed repression, for the Administration to preserve law and order. Before another step down the road toward such a catastrophe is taken, it is imperative that the Congress initiate appropriate action which will prevent such a disaster.

FOOTNOTES

[1] Alexander v. Holmes Co. Board of Education, U.S., 24 L. Ed. 2d 19, 21 (1969).

[2] United States Commission on Civil Rights, Report of September 11, 1969, Statement of the Commissioners.

[3] Green v. County School Board, 391 U.S. 430 (1968).

[4] Alexander v. Holmes County Board of Education, supra Note 1.

[5] September 26 press conference of President Nixon, Washington Post, September 27, 1969, p. A12.

[6] See Whittenberg v. Greenville County School District—F. Supp. (D.S.C. 1969).

[7] President Nixon reaffirmed the Administration's commitment to this approach during his September 26, 1969, news conference. See *Washington Post*, September 27, 1969, page A12.

[8] Report of the U.S. Commission on Civil Rights, *supra* note 2.

[9] *Adams v. Mathews*, 403 F2d 181 (5th Cir. 1968).

[10] The Fifth Circuit noted in its order of August 28, 1969, that the government had proposed the timetable HEW had been asked to meet:

Questions were specifically directed to the Assistant Attorney General appearing on behalf of the Government. Without qualification in response to precise inquiries he affirmed that Government's view that the timetable proposed by the Government was reasonable. And . . . he affirmed that sufficient resources of the Executive Department would be made available to enable the Office of Education of the United States Department of Health, Education and Welfare to fulfill its role as specified in the order proposed by it . . . .

The court further noted that:

Likewise, until the motion of August 21, 1969 (filed by the government in the Fifth Circuit requesting a delay until December 1 for the submission of desegregation plans), there had been no suggestion by the United States Attorney General that the time fixed by the Court should be relaxed or extended or that such timetable was unattainable.

[11] *United States v. Hinds County Board of Education.*

[12] Dr. Anrig was director of the Office of Education's Equal Opportunities Division.

[13] The President acknowledged during his September 26 press conference that he discussed the case with Senator Stennis and others. *Washington Post*, Sept. 27, 1969, page A12.

[14] The full text of the reply is included in the Congressional Record.

[15] The full transcript of that news conference is included in the Congressional Record.

[16] For a full account of the Civil Rights Division protest see the article written by Mr. Greenberg which will appear in the December issue of the *Washington Monthly* included in the Congressional Record.

[17] The full text of the proposed order is included in the Congressional Record.

DOCUMENT 2—DEPARTMENT OF JUSTICE

STATEMENT BY THE HONORABLE ROBERT H. FINCH, SECRETARY OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND THE HONORABLE JOHN J. MITCHELL, ATTORNEY GENERAL

I. INTRODUCTION

This administration is unequivocally committed to the goal of finally ending racial discrimination in schools, steadily and speedily, in accordance with the law of the land. The new procedures set forth in this statement are designed to achieve that goal in a way that will improve, rather than disrupt, the education of the children concerned.

The time has come to face the facts involved in solving this difficult problem and to strip away the confusion which has too often characterized discussion of this issue. Setting, breaking and resetting unrealistic "deadlines" may give the appearance of great federal activity, but in too many cases it has actually impeded progress.

This Administration does not intend to continue those old procedures that make satisfying headline in some areas but often hamper progress toward equal, desegregated education.

Our aim is to educate, not to punish; to stimulate real progress, not to strike a pose; to induce compliance rather than compel submission. In the final analysis Congress has enacted the law and buttressed the Constitution, the courts have interpreted the law and the Constitution. This Administration will enforce the law and carry out the mandates of the Constitution.

A great deal of confusion surrounds the "guidelines." The essential problem centers not on the guidelines themselves but on how and when individuals school districts are to be brought into compliance with the law.

The "Guidelines" are administrative regulations promulgated by the Department of Health, Education, and Welfare, as an administrative interpretation, not a court interpretation, of the law. Frequently, the policies of the Department of Justice, which is involved in law suits, and the Department of Health, Education and Welfare, which is involved in voluntary compliance, have been at variance.

Thus, we are jointly announcing new, coordinated procedures, not new "Guidelines."

In arriving at our decision, we have for five months analyzed the complex legacy that this Administration inherited from its predecessor and have concluded that such a coordinated approach is necessary.

II. THE LAW

Fifteen years have passed since the Supreme Court, in *Brown* v. *Board of Education*, declared that racially segregated public schools are inherently unequal, and that officially-imposed segregation is in violation of the Constitution. Fourteen years have passed since the Court, in its second *Brown* decision, recognized the tenacious and deep-rooted nature of the problems that would have to be overcome, but nevertheless ordered that school authorities should proceed toward full compliance "with all deliberate speed."

Progress toward compliance has been orderly and uneventful in some areas, and marked by bitterness and turmoil in others. Efforts to achieve compliance have been a process of trial and error, occasionally accompanied by unnecessary friction, and sometimes resulting in a temporary—but for those affected, irremediable—sacrifice in the quality of education.

Some friction is inevitable. Some disruption of education is inescapable. Our aim is to achieve full compliance with the law in a manner that provides the most progress with the least disruption and friction.

The implications of the *Brown* decisions are national in scope. The problem of racially separate schools is a national problem, and we intend to approach enforcement by coordinated administrative action and court litigation.

III. SEGREGATION BY OFFICIAL POLICY

The most immediate compliance problems are concentrated in those states which, in the past, have maintained racial segregation as official policy. These districts comprise 4477 school districts located primarily in the 17 southern and border states; 2994 have desegregated voluntarily and completely; 333 are in the process of completing desegregation plans; 234 have made an agreement with the Department of Health, Education, and Welfare to desegregate at the opening of the 1969–70 school year; under exemption policies established by the previous Administration, 96 have made such an agreement for the opening of the 1970–71 school year.

As a result of action by the Department of Justice or private litigants, 369 districts are under court orders to desegregate. In many of these cases the courts have ordered the districts to seek the assistance of professional educators in HEW's Office of Education pursuant to Title IV.

A total of 121 school districts have been completely cut off from all federal funds because they have refused to desegregate or even negotiate. There are 263 school districts which face the prospect, during the coming year, of a fund cutoff by HEW or a lawsuit by the Department of Justice.

These remaining districts represent a steadily shrinking core of resistance. In most Southern and border school districts, our citizens have conscientiously confronted the problems of desegregation, and have come into voluntary compliance through the efforts of those who recognize their responsibilities under the law.

IV. SEGREGATION IN FACT

Almost 50 percent of all of our public elementary and secondary students attend schools which are concentrated in the industrial metropolitan areas of the 3 Middle-Atlantic states, the 5 northern midwestern states and the 3 Pacific coast states.

Racial discrimination is prevalent in our industrial metropolitan areas. In terms of national impact, the educational situation in the north, the midwest and the west require immediate and massive attention.

Segregation and discrimination in areas outside the south are generally de facto problems stemming from housing patterns and denial of adequate funds and attention to ghetto schools. But the result is just as unsatisfactory as the results of the de jure segregation.

We will start a substantial program in those districts where school discrimination exists because of racial patterns in housing. This Administration will insist on non-discrimination, the desegregation of faculties and school activities, and the equalization of expenditures to insure equal educational opportunity.

V. NEW PROCEDURES

In last year's landmark *Green* case, the Supreme Court noted: "There is no universal answer to the complex problems of desegregation; there is obviously no one plan that will do the job in every case. The matter must be assessed in light of the circumstances present and the options available in each instance." As recently as this past May, in *Montgomery* v. *Carr*, the Court also noted that "in this field the way must always be left open for experimentation."

Accordingly, it is not our purpose here to lay down a single arbitrary date by which the desegregation process should be completed in all districts, or to lay down a single, arbitrary system by which it should be achieved.

A policy requiring all school districts, regardless of the difficulties they face, to complete desegregation by the same terminal date is too rigid to be either workable or equitable. This is reflected in the history of the "guidelines."

After passage of the 1964 Civil Rights Act, an HEW policy statement first interpreted the Act to require affirmative steps to end racial discrimination in all districts within one year of the Act's effective date. When this deadline was not achieved, a new deadline was set for 1967. When this in turn was not met, the deadline was moved to the 1968 school year, or at the latest 1969. This, too, was later modified, administratively, to provide a 1970 deadline for districts with a majority Negro population, or for those in which new construction necessary for desegregation was scheduled for early completion.

Our policy in this area will be as defined in the latest Supreme Court and Circuit Court decisions: that school districts not now in compliance are required to complete the

process of desegregation "at the earliest practicable date"; that "the time for mere 'deliberate speed' has run out"; and, in the words of *Green*, that "the burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work *now*."

In order to be acceptable, such a plan must ensure complete compliance with the Civil Rights Act of 1964 and the Constitutional mandate.

In general, such a plan must provide for full compliance now—that is, the "terminal date" must be the 1969–70 school year. In some districts there may be sound reasons for some limited delay. In considering whether and how much additional time is justified, we will take into account only *bona fide* educational and administrative problems. Examples of such problems would be serious shortages of necessary physical facilities, financial resources or faculty. Additional time will be allowed only where those requesting it sustain the heavy factual burden of proving that compliance with the 1969–70 time schedule cannot be achieved; where additional time is allowed, it will be the minimum shown to be necessary.

In accordance with recent decisions which place strict limitations on "freedom of choice," if "freedom of choice" is used in the plan, the school district must demonstrate, on the basis of its record, that this is not a subterfuge for maintaining a dual system, but rather that the plan as a whole genuinely promises to achieve a complete end to racial discrimination at the earliest practicable date. Otherwise, the use of "freedom of choice" in such a plan is not acceptable.

For local and federal authorities alike, school desegregation poses both educational and law enforcement problems. To the extent practicable, on the federal level the law enforcement aspects will be handled by the Departmnet of Justice in judicial proceedings affording due process of law, and the educational aspects will be administered by HEW. Because they are so closely interwoven, these aspects cannot be entirely separated. We intend to use the administrative machinery of HEW in tandem with the stepped-up enforcement activities of Justice, and to draw on HEW for more assistance by professional educators as provided for under Title IV of the 1964 Act. This procedure has these principal aims:

—To minimize the number of cases in which it becomes necessary to employ the particular remedy of a cutoff of federal funds, recognizing that the burden of this cutoff falls nearly always on those the Act was intended to help; the children of the poor and the black.

—To ensure to the greatest extent possible, that educational quality is maintained while desergregation is achieved and bureaucratic disruption of the educational process is avoided.

The Division of Equal Education Opportunities in the Office of Education has already shown that its program of advice and assistance to local school districts can be most helpful in solving the educational problems of the desegregation process. We intend to expand our cooperation with local districts to make certain that the desegregation plans devised are educationally sound, as well as legally adequate.

We are convinced that desegregation will best be achieved in some cases through a selective infusion of federal funds for such needs as school construction, teacher subsidies and remedial eductation. HEW is launching a study of the needs, the costs, and the ways the federal govenment can most appropriately share the burden of a system of financial aids and incentives designed to help secure full and prompt compliance. When this study is completed, we intend to recommend the necessary legislation.

We are committed to ending racial discrimination in the nation's schools, carrying out the mandate of the Constitution and the Congress.

We are committed to providing increased assistance by professional educators, and to encouraging greater involvement by local leaders in each community.

We are committed to maintaining quality public education, recognizing that if desegregated schools fail to educate, they fail in their primary purpose.

We are determined that the law of the land will be upheld; and that the federal role in upholding that law, and in providing equal and constantly improving educational opportunities for all, will be firmly exercised with an even hand.

DOCUMENT 3

APPENDIX C—LETTER OF AUGUST 11, 1969, TRANSMITTING DESEGREGATION PLANS FROM UNITED STATES OFFICE OF EDUCATION TO THE DISTRICT COURT

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION, WASHINGTON, D.C.

August 11, 1969.

Re *United States of America* v. *Hinds County School Board* et al., and related cases subject to the Court's Order of July 5, 1969

Judge WILLIAM H. COX,
U.S. District Court,
Southern District of Mississippi,
Jackson, Miss.

DEAR JUDGE COX: The enclosed desegregation plans were developed as a result of the Court's Order of July 5, 1969, in the above-referenced cases.

The technical assistance teams who carried out this work were made up of 27 educators and were under the direction of Mr. Jesse J. Jordan, Senior Program Officer of the Division of Equal Educational Opportunities, U.S. Office of Education, Department of Health, Education, and Welfare, headquartered in Atlanta, Georgia. (Attachment A contains identifying information for each of the 27 educators involved.)

LETTER OF AUGUST 11, 1969 TRANSMITTING DESEGREGATION PLANS FROM UNITED STATES OFFICE OF EDUCATION TO THE DISTRICT COURT

On July 11, 1969, I wrote to the superintendent of each school district named in the Order, advising him of the availability of services in the development of a desegregating plan. The letter provided the name, address, and telephone number of Mr. Jordan, and described the various types of information which would be needed from the school district for us to use in preparing a desegregation plan. (Attachment B is an example of this letter.)

Shortly after I sent my letter of July 11 to the superintendents, we contacted each by telephone and an appointment was made for a technical assistance team to visit the school district to gather all the materials necessary for developing a desegregation plan. As a result of cooperation between the local school officials and the technical assistance personnel, the following data were acquired:

(1) Building information—by school, the number of permanent teaching stations, capacity of each building, current student enrollment by race and grade, number of full-time and part-time teachers by race, number of students transported, age of building, type of construction, size of school site, and list of facilities such as cafeteria, gymnasium, library, etc.

(2) Proposed building information—future construction plans.

(3) Pupil Locator Maps (where available)—to show residence of Negro and white students.

(4) School and School Site Map—to show location of each school in the district, coded as to grade levels of students.

(5) Demographic Information (where available)—giving population distribution of the community by race.

A technical assistance team, composed of at least two (2) trained educators, visited or offered to visit each of the school districts at least three (3) times during this period. On the first visit, they viewed existing school facilities, gathered data, and discussed with local school officials their ideas for school desegregation and the administrative problems involved. On the second visit, they discussed with local school officials the team's tentative thoughts concerning a desegregation plan for the district, and attempted to elicit the ideas of the school officials as to alternative sound and feasible desegregation plans. Where the offer of a third visit was accepted, the team presented to the school officials the plan which the Office of Education intended to recommend to the Court, subject to amendments resulting from this meeting. At all times the Office of Education staff attempted to collaborate with the school officials in developing an effective and mutually acceptable plan.

The information we have used in formulating our plans was obtained, unless otherwise stated, from school district officials. For example we have described in each plan the information on which it is based. At the end of the proposed plans, we have inserted photocopies of reports and building information forms. While these are not signed, the information in them was furnished by officials of the school district. We were unable to indicate those instances where information is the result of observation of our staff.

In some cases school officials were not able to furnish precise information about student residences by race (pupil locator), or other demographic information. Also, in most instances, school officials did not furnish us with an estimate of enrollment for the 1969–70 school year, other than projections of the 1968–69 enrollment. The enrollment of each school district is stable enough to make use of such projections, a generally acceptable practice, in planning for the use of schools for the 1969–70 school year. In some cases, however, it is possible that these projections do not accurately reflect the numbers of children who reside in the area of a given school. This possibility stems from the fact that traditionally in these school districts there has been extensive busing of children to schools outside the areas of their residence.

Where our information was not precise enough, we avoided drawing exact geographic boundaries for school attendance areas. Rather, we provided guides from which these lines can be drawn to achieve at least the measure of desegregation indicated in the projection tables of our proposals. Because each proposal was not prepared by the same individual, this concept is worded in several different ways. In each case, however, we intend the same meaning. For example, when we recommend that children attending a certain school shall be assigned as specified or that children from a particular school be assigned to a specified place, we mean that all children living in the area of the school that is named should be so assigned through adoption of attendance lines so drawn as to utilize properly the school facilities and achieve at least the measure of desegregation indicated in the proposal. It should be clear that in such a case, we do not intend to recommend that a child who has been bussed into the area from another area under freedom of choice is to continue to attend that school, except possibly pursuant to a proper transfer policy, including one for majority-to-minority transfer as described in Section VI of our proposals.

I believe that each of the enclosed plans is educationally and administratively sound, both in terms of substance and in terms of

timing. In the cases of Hinds County, Holmes County, and Meridian, the plans that we recommend provide for full implementation with the beginning of the 1970–71 school year. The principal reasons for this delay are construction, and the numbers of pupils and schools involved. In all other cases, the plans that we have prepared and that we recommend to the Court provide for complete disestablishment of the dual school system at the beginning of the 1969–70 school year. Should the Court decide, however, to defer complete desegregation in any of these school districts beyond the opening of the coming school term, we have prepared and set out in the plans, steps which could, in our judgment, be taken this fall to accomplish partial desegregation of the school system at the opening of the 1969–70 school term.

The entire staff who participated wish to express appreciation for the cooperation we received from the school districts and for the opportunity the Court has given us to assist in the development of these desegregation plans.

Sincerely yours,

GREGORY R. ANRIG,
Director, Equal Educational Opportunities, U.S. Office of Education.

LETTER OF AUGUST 19, 1969 FROM THE SECRETARY OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE TO THE CHIEF JUDGE OF THE COURT OF APPEALS

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., August 19, 1969.

DEAR JUDGE BROWN: In accordance with an Order of the United States Court of Appeals for the Fifth Circuit, experts from the Office of Education in the Department of Health, Education, and Welfare have developed and filed terminal plans to disestablish the dual school systems in 33 Mississippi school district cases.

These terminal plans were developed, reviewed with the school districts, and filed with the United States District Court for the Southern District of Mississippi on August 11, 1969, as required by the Order of the United States Court of Appeals for the Fifth Circuit. These terminal plans were developed under great stress in approximately three weeks; they are to be ordered for implementation on August 25, 1969, and ordered to be implemented commencing with the beginning of the 1969–1970 school year. The schools involved are to open for school during a period which begins two days before August 25, 1969, and all are to be open for school not later than September 11, 1969.

On Thursday of last week, I received the terminal plans as developed and filed by the experts from the Office of Education. I have personally reviewed each of these plans. This review was conducted in my capacity as Secretary of the Department of Health, Education, and Welfare and as the Cabinet officer of our Government charged with the ultimate responsibility for the education of the people of our Nation.

LETTER OF AUGUST 19, 1969, FROM THE SECRETARY OF THE DEPARMENT OF HEALTH, EDUCATION, AND WELFARE TO THE CHIEF JUDGE OF THE COURT OF APPEALS

In this same capacity, and bearing in mind the great trust reposed in me, together with the ultimate responsibility for the education of the people of our Nation, I am gravely concerned that the time allowed for the development of these terminal plans has been much too short for the educators of the Office of Education to develop terminal plans which can be implemented this year. The administrative and logistical difficulties which must be encountered and met in the terribly short space of time remaining must surely in my judgment, produce chaos, confusion, and a catastrophic educational setback to the 135,700 children, black and white alike, who must look to the 222 schools of these 33 Mississippi districts for their only available educational opportunity.

I request the Court to consider with me the shortness of time involved and the administrative difficulties which lie ahead and permit additional time during which experts of the Office of Education may go into each district and develop meaningful studies in depth and recommend terminal plans to be submitted to the Court not later than December 1, 1969.

Sincerely,

ROBERT H. FINCH,
Secretary.

U.S. COMMISSION ON CIVIL RIGHTS

STATEMENT OF THE COMMISSIONERS ON FEDERAL ENFORCEMENT OF SCHOOL DESEGREGATION

Two months ago, the Attorney General and the Secretary of Health, Education, and Welfare announced a number of changes in the manner in which their Departments would in the future enforce the laws requiring desegregation of elementary and secondary schools. The statement of the Attorney General and the Secretary of HEW affirmed a commitment "to the goal of finally ending racial discrimination in schools, steadily and speedily. . . ." Prior to this announcement, the Commission, in telegrams to the President, the Attorney General and the Secretary of Health, Education, and Welfare had urged that no action be taken to slow the pace of school desegregation.

The Commission withheld any public comment on the July 3 announcement until the staff of the Commission had had a chance to complete a thorough analysis and until the Department of Justice and the Department of Health, Education, and Welfare had had an opportunity to take action consistent with their statement.

Since July 3, the House of Representatives has passed the Whitten Amendment, a measure that would restrict the Department of Health, Education, and Welfare's ability to enforce Title VI of the Civil Rights Act of 1964 by requiring it to accept freedom-of-choice plans for school desegregation and may well affect the acceptability of freedom-of-choice plans in the courts as well. The amendment was not opposed by the Administration in the House.

Also since that time, court orders have been entered and desegregation plans accepted which in our opinion postpone meaningful desegregation from 1969 to 1970, and the Secretary of HEW and the Department of Justice have taken the unprecedented step of requesting the courts to postpone effective school desegregation in Mississippi from this school year to 1970 and have also accepted delays in South Carolina and Alabama. To be sure, administrative actions were taken by HEW during the past several years and again this year to postpone school desegregation in various districts. These were made under the standards of the Guidelines and only under most exceptional circumstances. But it should be emphasized that what we are concerned with here is the Government's going into court at its own initiative and asking affirmatively for a postponement.

At the time the procedures were announced, the Attorney General is reported to have said that he preferred that the Nation watch what he *did* rather than focus on what he *said*. It is with this in mind that we find ourselves especially disheartened by the recent actions of HEW and of the Department of Justice in the cases in Mississippi, South Carolina, and Alabama. For the first time since the Supreme Court ordered schools desegregated, the Federal Government has requested in court a slow-down in the pace of desegregation. This request is particularly difficult to understand since as recently as July 3 the Secretary of HEW and the Attorney General announced that delays in desegregation beyond September 1969 would be granted only where a school district sustained "the heavy factual burden of proving that compliance with the 1969–70 time schedule cannot be achieved. . . ." In Mississippi, however, the Secretary of HEW and the Attorney General urged delay on their own initiative. In South Carolina and in Alabama, the Government took other action to delay desegregation. Certainly those who have placed their faith in the processes of law cannot be encouraged.

We acknowledged that the Department of Justice, in some areas, has sought court orders compelling desegregation this Fall. Eight such suits have been filed in Georgia. But each of these suits was necessitated when the school district reneged on a promise already made to HEW. One can only speculate on whether the July 3 statement and the Government's action in Mississippi encouraged this reneging.

But the problems caused by these new procedures and recent actions, however, are likely to be dwarfed by the probable effects of the Whitten Amendment, if passed by the Senate and approved by the President.

Our analysis of the new procedures and recent actions have now been completed, and a copy is attached to this Statement. Based upon it, we make the following findings:

1. The new procedures and recent actions involving Federal efforts to bring about school desegregation appear to be a major retreat in the struggle to achieve meaningful school desegregation. See pp. 31 to 56 of the Report.

2. The statistics purporting to show the present extent of school desegregation which were contained in the July 3 joint statement of the Attorney General and of the Secretary of the Department of Health, Education, and Welfare give an overly optimistic, misleading and inaccurate picture of the scope of desegregation actually achieved. In fact, in a number of Southern States, relatively little desegregation of elementary and secondary schools has been accomplished in the last 15 years. See pp. 8 to 12, 35 and 36 of the Report.

3. One of the major fallacies in the claim of substantial desegregation is that many districts have violated the terms of the assurances they have signed, or of the court orders that have been entered against them. Adequate personnel is necessary to police compliance. Congress has ordered HEW to treat the North and the South equally in its enforcement efforts. As a result of this Congressional directive, the Department of Health, Education, and Welfare has recently reduced the number of its personnel working for desegregation of elementary and secondary schools in the Southern and Border States, and has increased the number of its personnel working on such problems in the North and West. In the past, we have found that its staff was inadequate to police the compliance of school districts in the South, and the reduction in personnel can be expected to further restrict its compliance efforts in that region. Although HEW has requested 75 additional employees from Congress, it is unlikely that these additional personnel will be sufficient to remedy this problem. See pp. 9 to 13, 30, and 47 to 51 of the Report.

4. Court orders to desegregate have not generally been as effective a means of desegregating elementary and secondary schools as administrative proceedings backed by the threat of a fund cutoff. One reason is that a number of Federal judges in the South have been unsympathetic to the necessity of eliminating racial segregation in elementary and secondary schools. As a result, they have been insensitive to the requirements of the appellate courts which Congress has set over them, and have by their

direct actions and tolerance of the actions of others significantly retarded the pace of school desegregation in the cases before their courts. In addition, it is more difficult, under current law, to enforce a school board's compliance with a court order than it is to enforce, by the threat of withholding Federal funds, a school board's compliance with an HEW-approved voluntary plan. See pp. 31 to 46 of the Report.

Accordingly, emphasis upon court orders rather than administrative proceedings as the vehicle of Federal efforts to desegregate schools can be expected to slow the pace of school desegregation. The situation is further aggravated by the limited Department of Justice personnel available to bring lawsuits as well as the laudable newly announced policy of extending desegregation efforts from the South into the North and West. See pp. 47 to 51 of the Report.

5. Although use of the threat of withholding Federal funds has proved to be the most effective means of enforcing school desegregation, the actual termination of funds, when not followed by Department of Justice litigation to enforce immediate desegregation, reportedly results in disproportionate harm to black students and their teachers. We recommend that the Department of Justice promptly bring lawsuits to require immediate desegregation as soon as a district's Federal funds have been finally terminated. We also recommend that Title IV of the Civil Rights Act of 1964 be amended to permit the Department of Justice to initiate school desegregation suits without the necessity of receiving a specific complaint—as is now the requirement. See pp. 31 to 33 of the Report.

6. Since passage of the Civil Rights Act of 1964, Congress has given inadequate support to HEW's attempts to enforce school desegregation—appropriations have been limited and some unnecessary restrictions placed on HEW's operating procedures. In part, the inadequacy of HEW's enforcement efforts in the past five years stems from the inadequacy of this support. HEW's request for additional personnel is now pending before the Senate and we urge its approval.

7. Passage of the Whitten Amendment, which would require the acceptance of freedom-of-choice plans, would slow or halt the progress of school desegreation. We believe that there is a serious chance that its passage would reverse some of the limited gains already made. See pp. 25 and 26 of the Report.

8. As we had previously found in our 1967 report, *Southern School Desegregation:* 1966–67, freedom-of-choice, since it places the full burden of desegregation upon the shoulders of black parents and their children—those who are politically, economically, and socially least able to bear it—is not an effective means of desegregating elementary schools in the Southern and Border States. See pp. 14 to 26 of the Report.

Because freedom-of-choice requires affirmative action by black parents before their children can attend an integrated school, its use, as a practical matter, has encouraged local white citizens to engage in campaigns of intimidation and economic retaliation against black parents willing to take such action. Similarly, white students and teachers frequently harass and punish the black children whose parents have chosen to send them to the formerly white-attended school. Consequently, many black parents are literally afraid to send their children to formerly white-attended schools; as to them, the "freedom" to choose the school their children will attend is illusory. See pp. 20 to 23 of the Report.

Fifteen years have passed since the Supreme Court decided that the right of black children to attend the same schools attended by other children was guaranteed by the Constitution. Five years have passed since Congress, in the Civil Rights Act of 1964, also declared that segregation violated the law of the land. But segregation is more than just simply a violation of the law. In 1967, we issued a Report, *Racial Isolation in the Public Schools,* which concluded that racial isolation, whether caused by *de jure* segregation, discriminatory housing patterns, or other factors, resulted in serious educational harm to the children of minority groups. Conversely, integration significantly boosted the educational achievement of these children. If this Nation truly respected the rule of law, if it truly cherished each of its children, the last vestiges of segregated education would have disappeared years ago. Instead, segregation continues as the pattern, and not the exception, of education in many States.

At this point, we can do no more than echo the words written recently by Justice Black:

[T]here are many places still in this country where the schools are either "white" or "Negro" and not just schools for all children as the Constitution requires. In my opinion there is no reason why such a wholesale deprivation of constitutional rights should be tolerated another minute.

Similarly, we agree with Federal Judge Hoffman that:

For an American who is devoted to his country and wants to believe in the intelligence and good-will of its citizens it is very painful to contemplate and difficult to understand continued resistance to school desegregation.

While progress has been slow, the motion has been forward and this is certainly no time to create the impression that we are turning back but a time for pressing forward with vigor. This is certainly no time for giving aid and comfort, even unintentionally, to the laggards while penalizing those who have made commendable efforts to follow the law, even while disagreeing with it. If anything, this is the time to say that time is running out on us as a Nation. In a word, what we need most at this juncture of our history is a great positive statement regarding this central and crucial national problem where once and for all our actions clearly would match the promises of our Constitution and Bill of Rights.

Thus, we are deeply concerned over the directions recently being taken in Federal efforts to desegregate elementary and secondary schools. We are committed to the purpose for which this Commission was created: to act as an objective, bipartisan factfinding agency and to continually apprise the President and the Congress of the facts as we see them. We speak out now since we believe our Government must follow the moral and legal principles and promises on which our Constitution and laws are based and meet the high expectations to which the people of this country have addressed themselves.

Rev. THEODORE M. HESBURGH, C.S.C.,
Chairman.
STEPHEN HORN,
Vice Chairman-Designate.
FRANKIE M. FREEMAN,
HECTOR P. GARCIA, M.D.,
MAURICE B. MITCHELL,
ROBERT S. RANKIN,
HOWARD A. GLICKSTEIN,
Staff Director-Designate.

ADDITIONAL STATEMENT BY VICE CHAIRMAN-DESIGNATE HORN

Civil rights is a national problem. Progress and blame can be shared by those in all three branches of our Government under several administrations and by people in all parts of our country.

Under the previous administration, the Department of Health, Education, and Welfare permitted 67 school desegregation plans submitted by districts in Southern States to be delayed for final implementation until September, 1970. Under the current administration, 51 school desegregation plans have been delayed for final implementation until September, 1970.

The easier tasks have been done. The most difficult problems still remain. All who serve in each of the three branches of our Federal Government and, indeed, all Americans should face up to them.

DEPARTMENT OF JUSTICE,
Washington, September 18, 1969.

To: All Attorneys, Civil Rights Division.
From: Jerris Leonard, Assistant Attorney General.
Subject: Some Considerations of Policy in the Enforcement of Civil Rights Laws.

During the past few weeks I have given considerable attention and thought to the concern many of you expressed regarding the policy in civil rights law enforcement. It is clear that the problem arises in large part from my failure to articulate with specificity policies which may differ in some ways from previous policies. I regret that; and I want to take this opportunity to set forth what I deem to be important aspects of our policies. Over the past eight months I have carried on continuing discussions with the Attorney General regarding policies in civil rights. We are in full agreement on all policy issues, including those touched on in this memorandum.

I am sure all of us agree upon the goal to be achieved, and are committed to the achievement of it—equal opportunity for everyone in the areas of our responsibility—employment, education, housing, voting, public accommodations and facilities. As I see it, the basic change from the old to the new is in the method by which the goal should best be achieved—the proper use of the litigation tool as a method for achieving the goal.

This Administration is determined to achieve the goal through a sympathetic approach to the problems of all persons affected, through hard work, through persuasion and leadership, backed by the use of federal coercion when it is needed. Thus, for example, we will as a general rule use the technique of negotiation and conciliation before invoking coercive remedies. The simple philosophy of it was well expressed quite a long time ago in a different context: "speak softly and carry a big stick."

Consistent with our concern for the problems of all people is our readiness to help school boards and communities, in whatever way we can, with the problems they see connected with the desegregation of their schools. It is true that courts have said that in the desegregation process community attitudes are legally irrelevant. It is perfectly right for courts to say that, since they cannot go out and deal with these problems. But I do not think that excuses us as lawyers, or the federal government, from finding ways to deal with and to help solve those problems. They are real problems; they are practical problems; and I think we would be derelict by closing our eyes to them with the citation of cases.

A related problem of method arises from the legal truth that, as a matter of law, the burden of desegregation is on the school board. Again, it is perfectly right that the courts have thus held, because courts cannot go out and do the work involved in desegregating schools. Neither can private plaintiffs. But I think it would be irresponsible for the government of the United States to say simply to school boards that the burden is on you and we are not going to help you beyond the citation of cases. As we have seen, school boards very often do not meet that burden; not because they are evil criminals, not because they do not understand what the courts have told them,

but because they are simply unable, in their view, to do the job. I think we all know and should constantly remind ourselves that school boards for the most part are not professional educators or experts, but instead they are usually members of the community, elected by that community. Because this is true, I think it is simply not realistic for the government of the United States to say to them: "We recognize that you are sensitive to community attitudes, but we close our eyes to that; we know the burden is yours, but we will not share it; and if you do not meet that burden you will go to jail."

It is because this Administration feels a special responsibility on the federal government to provide constructive help in the desegregation process that we urged judicial reliance on HEW experts. It is for this same reason that I think we as lawyers must find ways to provide constructive help. Reasonable men may differ as to what kind and how much help is needed, and what help is constructive; but I think the basic principle is right, and I want us to follow it and to apply it.

During the past four weeks I have been working closely on a day-to-day basis in Louisiana with school boards, school officials, teachers, parents, students, law enforcement officials. That experience confirms my belief that there is no substitute for hard work by lawyers with local groups and individuals on problems that are very real to them; while at the same time being very tough in our determination that the goal will be achieved.

It is important to set deadlines; but to set deadlines and then to abdicate our responsibilities in helping to meet them by working with the hard problems is a disservice. In short, we plan for this Department and for HEW to help school boards in every way we can to come up with plans which promise realistically to work now, and to prepare for implementation of those plans. If in some cases we do not have enough time, I am not going to be embarrassed if I need to ask for additional time. My object is to get the job done in the best way that I can as I see it.

I cannot emphasize enough the importance of scheduling and doing our school desegregation work now—when there is plenty of lead time before the next school year to permit us to see that school boards are taking all necessary steps in preparation for the implementation of desegregation plans. We must avoid the eleventh-hour push whereby decision day, implementation day, and school opening occur simultaneously, as was true in the Mississippi cases. In my view, the request in those cases for a delay was a sound decision—which should be the real test of any decision; but the occasion for such delay need never arise if we insure plenty of leadtime.

What this comes down to in a practical sense is that we must devote more energy and creative work in our school desegregation cases. I am convinced, for example, that the attitude of teachers toward their new desegregated assignments is a critical factor in the success of desegregation. My recent experience in Louisiana fully confirms this view. Teachers are usually highly regarded in their respective communities; often, they are community leaders. A teacher with a bad attitude toward desegregation can contribute significantly to a negative response by the community; and, what is worse, that teacher is an educational detriment to the student. I think, therefore, that in laying the groundwork for effective desegregation, we should seek to require such techniques as integrated teachers' workshops, team teaching, temporary teaching across racial lines. I feel sure that creative thinking could lead us to a variety of other techniques which could be put in progress now in order to make desegregation next year more effective.

Similarly, I think we need to put more effort in the preparation of our cases. During the past year there have been many hearings in which the United States was the plaintiff involving the details of desegregation plans and their implementation, where there was not one Negro witness speaking to the injustices of the system, not one expert speaking to the inadequacies of educational opportunities, not one expert speaking to the administrative details for implementing the plans, and not even a Negro in the courtroom as an interested spectator. Instead, the only witness was the school superintendent cross-examined by government attorneys about plans drawn by government attorneys. It was as if the whole problem and the contest were between a government attorney and the school superintendent. Some of the highly experienced and well-respected attorneys in this Division have expressed shock at this kind of preparation and presentation. I share that shock, because I think in our preparation and presentation of cases we need to deal with all of the details and problems connected with desegregation.

What I have said here by way of illustration is the expression of a philosophy. I do not expect everyone to share that philosophy; but I do ask the attorneys in this Division to help carry out the methods which I think are best suited to bring about effective desegregation. And if I am wrong, or if I make mistakes, even then I would ask the attorneys to bear with me.

Finally, the question has been raised as to the impact of political pressures on law enforcement. I think all of us realistically must recognize that all government agencies are constantly subjected to political pressures from all sides of the political spectrum. This has been true throughout history, and will continue to be true. The real question then is whether decisions are sound; and in the decision-making process in the enforcement program of this Division, I intend to exercise my best judgment and to rely heavily on the advice of experienced lawyers in the Division.

I began with my concern about the possibility of a communication gap. Certainly, if one exists it could not be fully bridged by general statements about policy in a few pages. I plan to increase the number of meetings we have regarding problems in specific cases. I think such meetings will be very helpful to all of us, and I look forward to your full cooperation and support.

DOCUMENT 7

September 29, 1969.

The attached statement was presented to President Nixon, Attorney General Mitchell and Assistant Attorney General Leonard on August 29, 1969. On September 18, 1969, Mr. Leonard replied to this statement on behalf of the Administration; and on September 22, that reply was made public.

As line attorneys in the Civil Rights Division, we believe the reply indicates an intention to continue with the policy of civil rights enforcement toward which our August 29 statement was directed, a policy which, in our view, is inconsistent with clearly defined legal mandates. For this reason, and because only one side of the controversy has been made public, we now wish to expose the discussion of these essential questions to full public view.

August 29, 1969.

To: Honorable John N. Mitchell, Attorney General of the United States; Honorable Jerris Leonard, Assistant Attorney General of the United States.

We the undersigned attorneys in the Civil Rights Division, are gravely concerned by events of recent months which indicate to us a disposition on the part of responsible officials of the federal government to subordinate clearly defined legal requirements to non-legal considerations when formulating the enforcement policies of this Division. In particular, we are concerned with recent policy decisions relating to the enforcement of constitutionally required school desegregation.

We are of the view that the decision to withdraw desegregation plans submitted by the United States Office of Education in a group of Mississippi school cases is a clear example of this subordination of the requirements of federal law to other considerations. Based on our experience, we are convinced the decision reflects a disregard for the merits of each case. Careful study by attorneys directly involved, including consultation with Office of Education personnel, led them to the conclusion that the plans filed were sound and capable of implementation.

It is our fear that a policy which dictates that clear legal mandates are to be sacrified to other considerations will seriously impair the ability of the Civil Rights Division, and ultimately the Judiciary, to attend to the faithful execution of the federal civil rights statutes. Such an impairment, by eroding public faith in our constitutional institutions, is likely to damage the capacity of those institutions to accommodate conflicting interests and insure the full enjoyment of fundamental rights for all.

We recognize that as members of the Department of Justice, we have an obligation to follow the directives of our departmental superiors. However, we are compelled, in conscience, to urge that henceforth the enforcement policies of this Division be predicated solely upon relevant legal principles. We further request that this Department vigorously enforce those laws protecting human dignity and equal rights for all persons and by its actions promptly assure concerned citizens that the objectives of those laws will be pursued.

DEPARTMENT OF JUSTICE PRESS CONFERENCE BY JERRIS LEONARD, ASSISTANT ATTORNEY GENERAL, GREAT HALL, DEPARTMENT OF JUSTICE BLDG., WASHINGTON, D.C., MONDAY, SEPTEMBER 29, 1969

PROCEEDINGS

MR. LEONARD. Thank you all for turning out for this little gathering today. We take this opportunity, I guess for two reasons, to ask you to come visit us.

One is because the Civil Rights Division is in a rather important reorganization which was announced last week; and in that respect I would like to introduce to the members of the press who are here all three gentlemen who I am sure you will be having dealings with from time to time. Two of them are new in their new positions.

Mr. David Norman, who is the first Deputy Assistant Attorney General; Frank Dunbaugh, newly appointed Deputy Assistant Attorney General; and Jim Turner, newly appointed Deputy Assistant Attorney General.

I think as you look at the reorganization and the structure of the Civil Rights Division, you will see where these men will be functioning and what their primary responsibilities will be.

Secondly, many of you have requested interviews. In fact, so many that we felt it might be best to try to get you all together and let you ask your questions collectively.

So with that, who would like to start?

End of the press conference?

QUESTION. Jerry, if I could ask you about the Mississippi cases, the attorneys, some of the attorneys who signed the protest petition, some of the 65 attorneys have told some of us that they were ready to file the HEW

plans before the school deadline, before the court deadline of August 11. Some of them say they were told to hold off by you until after the ABM vote. Could you explain or comment on that? Were they delayed? And what was the reason?

Mr. LEONARD. I don't recall having discussed filing time with any attorney who is handling or working on the Mississippi cases. And to my knowledge, if there is any connection between the ABM and the Mississippi cases, it's too remote for me to see. I certainly had no knowledge of it, and I doubt that anybody else in this Administration had any such knowledge.

QUESTION. You are saying so far as you know, they were not ready to file earlier?

Mr. LEONARD. I couldn't tell you the specific timing because the plans were in the hands of HEW. I do know that the Circuit Court of Appeals itself extended the time for filing to September 1, which I believe was Labor Day—that was a Monday. Some of the school districts had already opened schools prior to that date; and there were others that were ready to open the week of Labor Day.

Other than that, I can't really tell you what the time sequence was.

QUESTION. In your letter or memorandum of the 18th, you defend as proper the delay in the Mississippi cases. You also note that every Government agency is subject to political pressures from various ends of the spectrum. Are you aware, in the Mississippi cases, yourself, of any political pressure in this delay?

Mr. LEONARD. None with respect to all of the cases en masse. We have had in the Division requests from Members of Congress to review specific cases in Mississippi. We have had Members of Congress call and set up appointments with school board members, school superintendents. That is in my opinion the normal functioning of an Executive agency.

I have never been asked by any Member of Congress to make a specific decision with respect to any school case or, for that matter, any case that is pending or pends now before the Civil Rights Division.

In my humble opinion, having spent twelve years in a Legislative body, it is completely appropriate for a member of the Legislature to ask a member of the Executive Branch of government to see his constituents, to give thought and weight to what they may have to say about their problems with that agency. That I believe is part of the duty of the Legislature.

QUESTION. In this statement today, the September 29th statement, they again say that your law enforcement policies with regard to civil rights are inconsistent with clearly defined legal mandates. As I understand it, we are talking about 65 attorneys who are engaged in civil rights day to day. Now, if it is their judgment that it is inconsistent with clearly defined legal mandates, what does this mean?

Mr. LEONARD. Sixty-five lawyers are wrong, I guess, because I think I have set out in my statement what the civil rights enforcement policy of this Division is going to be.

QUESTION. A month ago when the first words of dissent or disenchantment were heard from the 65 lawyers, you indicated they just didn't know the score, that you would have to perhaps tell them a little bit about what the facts were. You have had that opportunity, and now having heard from you, they apparently have rejected what you said. Why do you think they have done so?

Mr. LEONARD. First, of all, let me refresh your recollection a little bit. You are talking about the interview you did with me in Lafayette, Louisiana, in front of the Federal Building. In the first place, I didn't say they didn't know what the score was. I said it was entirely possible that many of them did not know all of the facts with respect to the Mississippi cases.

I also indicated at that time, however, that I had the greatest of confidence in them, and I still do today. That doesn't mean that we can't disagree with respect to the handling of a specific case or a specific group of cases.

The Mississippi decision, after all, was a tough one. It's the tough ones where the controversy will always lie. You can usually get agreement and unanimity on the easy ones. This was a tough decision, that was made by the Secretary of HEW. We happen to be HEW's lawyers. We are Government lawyers. And we have an obligation to have a consistent policy within the Executive Branch of Government with respect to law enforcement.

HEW is deeply involved in the law enforcement activities of school desegregation, at our request. We want them deeply involved. We want the educational input and expertise that comes from the HEW educational experts.

Obviously, therefore, on these tough decisions there is going to be some controversy. There will be some difference of opinion.

I believe the decision that the Secretary made with respect to the Mississippi cases was a proper one, based solely on the time for implementing the plans involved in those thirty-three.

QUESTION. You indicated one of the reasons you thought it was proper was that a better plan was going to be brought forward by the Administration, probably during the month of October, next month. Now some of your staff lawyers who have seen those plans in preparation indicate they are pretty much the same as the old plans. Is that so?

Mr. LEONARD. No, I didn't indicate that a better plan would be brought forth. As a matter of fact, the testimony that I elicited from the experts who testified in Jackson was to the effect that basically the plans were sound; that the difficulty with the plan was the time of implementation of them. They testified that it would be difficult; it would be chaotic to attempt to implement those plans at such a short notice.

The testimony from both of the experts that I put on, and the other two who were prepared to testify, was simply that there could have been more validity given to the plans. There could have been some study, some additional study given that would have validated that the plans were basically sound.

Now, that's the total of the testimony that was adduced.

QUESTION. Will it be easier or tougher now to implement the plan when it is presented?

Mr. LEONARD. It's going to be tough as it is, and I wish you would have stayed with me in Louisiana for the four weeks I was down there. You will find that it is tough, but it can be done if you use your head and work hard and make a commitment to get the job done and understand the problems that these local school superintendents and the school boards have; you will get the job done.

QUESTION. I have three related questions about the shortness of time in implementing the plan.

I notice that in Mr. Finch's letter to the judges, he said that he mentioned the August 25th deadline. He apparently was not aware it had been extended to September 1. I would be interested to know how he happened to reach such an important decision without knowing when the deadline was. Would that have made any difference if he had known?

And second, is it true that the lawyers who were handling this case were not informed before the decision was made?

And third, why were all thirty delayed? Why were not the ones that could have been implemented in time permitted to go through?

Mr. LEONARD. Well, Secretary Finch probably didn't know of the extension of the Circuit Court because the Justice Department didn't inform him of that fact. Other than that, I have no personal knowledge of why that date was mentioned in the letter as opposed to the September 1st date.

Secondly, the chief lawyer who was handling the case was informed prior to the court appearance; he was informed the same afternoon that we received a copy of Secretary Finch's letter. His opinion was not requested with respect to whether or not that decision was to be made; nor was mine. I was told that that was the Secretary's decision.

Your last question, with respect to the reason for handling all thirty cases, I think is really two-fold:

One is the testimony, again adduced at the hearing from both witnesses, was that you will achieve a smoother, more orderly integration if you can handle those cases which have been treated together on the same time schedule. I am not talking about the same total desegregation schedule, but I am talking about the beginning of the processes. Get them moving along in the beginning at the same time.

Reference was made in the testimony, as an example, that HEW itself uses the cluster method; that is, trying to get a group of school districts in a particular geographic area and handling them together.

I think the second and more important reason possibly was the fact that, of the time limitation itself, there was not time to sit down and review the plans in any detail to determine which could be moved ahead and which couldn't be moved ahead. At least that was the position of HEW.

QUESTION. You have now given an answer to these lawyers. What will your attitude be if they continue their protest? What do you expect of them in that regard?

Mr. LEONARD. I don't think they will. I think they are professionals. I think they understand that an Executive agency has got to have policy; that the Administration has the right to set that policy; and that once there's been an airing of it and a discussion of it—and by the way, we do have some discussions within the Civil Rights Division of policy. Unfortunately I don't think we have had enough policy discussions with the line lawyers. I think we will be able to have more of that.

But I think any lawyer worth his salt knows that once a decision has been made, that he has an obligation to carry out that policy.

QUESTION. Are you saying that if they then do not want to abide by this policy, or believe it is wrong, they should leave? I mean, are you at that point?

Mr. LEONARD. Did I say that?

QUESTION. I'm asking if that is your attitude.

Mr. LEONARD. I thought what I said is that I think they will abide by the policy.

QUESTION. Today they did not agree with that, and in a note dated today, they have expressed their continuing disagreements, after having discussed it with you in one form or another.

Mr. LEONARD. I don't say there won't be continuing disagreement. The question went more to activity. I don't expect everybody in the Civil Rights Division to agree with every decision I make. As a matter of fact, I would think there was something wrong if everybody did.

QUESTION. Doesn't that pose a special problem? If 90 percent of the lawyers disagree, not with the specific case but on general policy, and where there continues to be disagreement doesn't that make it kind of difficult to run a Division that way? How do you deal with it?

Mr. LEONARD. Well, I disagree with many of the things that Newsweek magazine says, but I haven't stopped reading it.

QUESTION. No, but you don't work for it either.

Mr. LEONARD. You work for me. I am one of your subscribers.

QUESTION. No longer are the attorneys in the Civil Rights Division underground in terms of their disagreement with the policies. I mean, they have surfaced now and released a statement today. How long are you prepared to tolerate that kind of dissension?

Mr. LEONARD. I think I answered that question. I don't believe that a professional, once he has had an opportunity to have his piece said, is going to take action and do things which are detrimental to the overall cause of the law shop that he works for. I just don't think the legal profession operates that way. At least, I have never seen it, and I don't think it will operate that way.

QUESTION. Do you feel that continued disagreement of this nature now on this specific policy in these cases would be detrimental to the shop they work for?

Mr. LEONARD. I don't think disagreement is ever detrimental.

QUESTION. I mean in the form they have expressed it here, the unified action in releasing it publicly today.

Mr. LEONARD. I don't read anything in today's statement which I would deem to be detrimental.

QUESTION. Under your reorganization plan, could you possibly speculate on how many of these 65 attorneys who signed this policy statement will be assigned to southern school desegregation cases?

Mr. LEONARD. That would be very difficult for me to answer because I don't know any one of the 65. I have never seen the 65 names. And I don't intend to see them. I am not interested in seeing who specifically they are.

QUESTION. Your memo of September 18 says that the real question then is whether the decisions are sound. Is it your theory or your feeling that the decisions to go ahead in Mississippi were unsound?

Mr. LEONARD. Well, I believe that the decision to delay the Mississippi cases was a sound one, not only in and of itself, but when you take it as a part of the total law enforcement efforts of this Division, and the resources available to HEW, I think that in hindsight there isn't any question that that decision to delay was borne out as a sound one.

If we would have had the kind of resistance in Mississippi that we saw in certain parts of Louisiana, in the suits we had to bring in Georgia, in Arkansas and Texas, I doubt sincerely that the resources of this Division would have been adequate without a substantial shift away from some other law enforcement activity to handle that situation.

I think that one of the things we must do, and are doing for our 1970 enforcement program is determining what part of our resources is going to be needed to in fact enforce the court orders that the courts come down with; and if this same kind of legal maneuvering goes on in all of those situations in 1970 as went on in just a few districts in Louisiana this fall, we are going to need to put a substantial amount of recourse to the court order enforcement area.

QUESTION. I want to make sure I don't misunderstand you. You seem to me to be saying that if enforcement is going to take a great deal of work and a great deal of effort, then you should postpone it?

Mr. LEONARD. What I am saying is that you can't enforce the law if you don't have the troops to enforce the law with. I think that's just obvious. And we do not have the kind of resources necessary to take on a massive effort.

If there were a lot of desegregation plans that were coming to fruition in any particular one year, and there was the kind of resistance that we have seen in some of the areas in Louisiana, we would not have the resources to enforce the court orders.

QUESTION. There have been many statements from blacks, and now a survey of Negroes in Indianapolis shows a majority of blacks there do not favor integration but, rather, want their own schools, but good schools, brought up to the quality of those in white suburban neighborhoods. Would you discuss your feeling about this black separatism versus integration?

Mr. LEONARD. I am firmly committed to the principle that a desegregated school is a school that can offer better education than can segregated schools within the same school system. So I have no more sympathy for Negroes who preach and want black separatism in the school system than I would support whites who want segregated schools. I think both are wrong. I think both do not have the facts. They don't really recognize that a segregated school system is living it, telling it, learning it like it is in today's real world. That's my answer.

QUESTION. Did I understand you to say that you who are the chief legal officer in charge of this case was not consulted before HEW, who was not a party to the case, took this action and asked for the delay?

And in connection with that, is it your understanding that the head of the technical assistance program within HEW was not consulted either, and that the Commissioner of Education was not consulted?

Mr. LEONARD. I can't attest to what did or did not happen within HEW. I have no knowledge as to that. You lay great stress on the fact that HEW was not a party.

You must understand that, technically speaking, under the rules, so to speak, Justice and HEW were not to be collaborating. Now we are going to move away from that a little bit, I hope, and we are going to make that clear.

But HEW had every right as an expert, a court-appointed expert, to make its own decision independent of the feelings of the Justice Department. So there was no obligation on the part of the Secretary to consult us as such about whether or not this decision was right or wrong. He obviously had the obligation to inform us because we would have to be the moving party.

QUESTION. Are you telling us that you were not consulted on this delay?

Mr. LEONARD. That's correct, I was not consulted with respect to the question of whether it would or would not be done.

QUESTION. The Attorney General says he did not discuss it with Secretary Finch, on several occasions. Was this carried out on a Cabinet level, discussion of whether Mississippi was to be given a delay?

Mr. LEONARD. You are asking me a question and I don't know the answer.

QUESTION. If there is to be a policy now of only seeking court orders as far as they can be enforced with practicality, isn't this going to lend some weight and vigor to those who would resist integration in the South?

Mr. LEONARD. Well, you make that sound as if there is some change in policy. There is no change in policy. You can't take one lawyer and make two lawyers out of him. Your enforcement program is based on the resources that you have available to you. So that isn't any change in policy.

The only thing that changes is the resistance that you run into, and you can't predict that. There is no way of predicting that.

There was no way, for instance, of our predicting that 2500 whites were going to storm a school board meeting—and you should have stayed down there with me, Carl, you would have really learned something about this whole process. I mean it. Twenty-five hundred yelling, raging white people standing there in a high school auditorium, one woman with a noose demanding that that school board close the schools.

Now I'll tell you something, Mr. Stern, even you would have voted to close the schools under those circumstances.

QUESTION. Mr. Leonard, you didn't want Federal marshals there. I didn't hear you screaming to get Federal marshals to enforce the law.

Mr. LEONARD. You're wrong. We have over 70 Federal marshals just in those two parishes.

QUESTION. Is what you are saying "only so fast as we can get policemen?"

Mr. LEONARD. Do you have any other alternative to that? If there is another alternative, I wish somebody would come up with it.

QUESTION. When do you think a situation is going to exist that the white community in the South will accept these things? When do you think they are going to stop storming the school board?

Mr. LEONARD. I think we are dwelling on the exceptions. I think we have to realize that there were a tremendous number of parishes in Louisinana and other areas of the South—let's not forget, 350 Title VI voluntary plans went into existence this fall, and we had to sue about 25 or less of those 350 to make them live up to that voluntary agreement.

The point I'm trying to make is that you cannot predict the number of reneges that you are going to get, or the number where there is going to be the kind of massive resistance there was in a few areas in Louisiana where you are going to have to bring in more lawyers because you have got to fend off the legal maneuvering and you are going to have to bring in marshals. You can't predict that. And I think it would be foolish for anyone to stand and say that he can absolutely predict it.

QUESTION. How long will it take in your estimation to eliminate the dual school system in the South?

Mr. LEONARD. I wouldn't hazard a guess at that.

QUESTION. Would you say that this method of seeking court injunctions is consistent with the President's declared policy of a middle ground in this area?

Mr. LEONARD. I wouldn't want to interpret what the President said; but I think he was talking more about the technique or more of the way in which you must work with the school boards as opposed to the particular technique. I think whether it be HEW Title VI, HEW Title IV, the Justice Department—those of us who work in the school desegregation area must have a greater understanding of the fact that these school boards in many situations are politically incapable of doing the job. So we, through persuasion and the sanctions that we have, and political pressure, from the standpoint of being there, keeping the pressure on these people, continuing to inform them of what the law requires, it is just going to take a lot of bodies and a lot of people who are going to work hard at getting the job done.

I don't think the President was distinguishing as between fund cut-offs or court suits. They are both valid, depending upon the facts of the case.

And proof of that again is the 350 Title VI desegregation plans that went into effect this fall.

QUESTION. Could it conceivably take another fifteen years?

Mr. LEONARD. I don't see that in my wildest imagination.

QUESTION. What are you guessing at?

Mr. LEONARD. Will you take five, Bob?

QUESTION. It certainly isn't that kind of time.

QUESTION. The Solicitor General, in his submission to the Supreme Court in the Mississippi case, and now you in your answer here, have said that this was a HEW decision. Apparently in the early weeks

of the term the Supreme Court is going to deal with the law side of this matter and, as Justice Black says, whether the "all deliberate speed" phrase continues to have legal validity.

What does your Department intend to argue in the Supreme Court? One, is all deliberate speed continuingly necessary? If it is not, what should be substituted for it? And third, how would you react if the Supreme Court said that instant integration, to use the present phrase, had to come now?

Mr. LEONARD. First of all, let me say the Department, to my knowledge, has not yet established its position with respect specifically to that question. And it would be presumptuous for me to indicate that the decision for establishing it would be mine because it would not be solely mine.

I can tell you that I believe that if the Court were to order instant integration, that nothing would change.

QUESTION. Could you explain that a little bit?

Mr. LEONARD. The Court cannot enforce its own court order. Somebody has to enforce that order, and that means bodies and people that have to do it. And there just are not the bodies and the people presently available to enforce that kind of a legal decision right now.

I assure when you say "instant," you mean right now—forget about the September opening of schools—right now, on the day or the week the decision is rendered. It just could not be done.

QUESTION. What less than instant integration could you handle? Let's say the fall of '70.

Mr. LEONARD. I do not believe you could do it then; not with the present resources.

QUESTION. Several times you have talked about a shortage of bodies and people. My understanding of the statement last July, the combined statement of Justice and HEW, was that there was going to be a change toward more litigation and court action as opposed to administrative procedures. My understanding is that this would necessarily place a greater drain on bodies in the Justice Department and increase the shortage. Was not this anticipated at the time? In other words, aren't you contributing to that shortage?

Mr. LEONARD. I don't think you are contributing to it, Bob, because I think we saw in the 20 or 25 reneges that were negotiated by HEW that even though a school district and a school board might agree to do the job, that that doesn't guarantee they are going to do it. There certainly is greater suasion and greater pressure upon the board to do the job under a court order because they suffer the possibility of contempt.

I think the thing that you want to remember is that you can't play the numbers game here because you can't predict what in fact is going to happen in a particular school district come the opening day of that school. You have to wait until it happens and then try to marshal enough resources to address yourself to the problems.

Now, the fact of the matter is we need more bodies and more people and more dollars, both HEW and Justice, if there is going to be an acceleration of the efforts in schools desegregation.

QUESTION. But isn't the drain on lawyers greater than if you were using Title VI more and using the administrative remedy?

Mr. LEONARD. That is true; but it is a non sequitur. Because that doesn't mean you are going to get the job done by using Title VI. You may get the job done—and Title VI is a valid method, a valid tool in the total Federal box of school desegregation. But it may not be and is not totally effective.

QUESTION. I understand you are going to get about a 50 percent increase in lawyers, hopefully for your Division. If you are in such terrible trouble, if you can't continue to enforce the law because you don't have enough people, don't you think you should have asked for maybe ten times as many lawyers?

Mr. LEONARD. Carl, we always have a problem of orderly absorption of increased personnel into our staff. So it is not just a matter of numbers; but there are some other techniques like getting some HEW help and the like.

QUESTION. You have said that you think the dissension within your Division will not continue; and yet the statement distributed by the rank and file lawyers which bears today's date says that the policies that are being followed are inconsistent with clearly defined legal mandates. That seems to be lawyerese for saying you are not carrying out the law. How can you say this problem is cooling off? It appears to me it is heating up.

Mr. LEONARD. I am not so sure I understand the question.

QUESTION. They say that the policies of your Division are inconsistent with clearly defined legal mandates, which is another way of saying you are not carrying out the law. This is a statement they have issued today. And yet you have told us you think the problem has pretty well solved itself and they will now follow your lead. What makes you think that?

Mr. LEONARD. I think I have addressed myself to that question at least four or five times.

QUESTION. I am trying to put it in the context of the fact that today——

Mr. LEONARD. Who else has a question?

QUESTION. Is the Government going to appeal the Taylor County vs. Finch case which is holding up the HEW fund cut-offs now?

Mr. LEONARD. The question is whether the Taylor County decision will be appealed. I don't think that that decision has finally been made. But I would hazard a guess that it probably will be.

QUESTION. I am interested in the even-handed application of this principle, that where there is resistance there perhaps should be postponement. If, for example, instead of this crowd of southern middle-aged people you had a crowd of northern liberal youngsters waving banners about marijuana, would you also there seek to postpone legal action because you would be afraid of their reaction?

Mr. LEONARD. You see, you miss the point, I don't really see how you can miss the point.

The point I was trying to make in that instance was that you needed to have the attorney personnel available to move into the courtroom to enforce that court order, irrespective, in spite of the fact that there were 2,500 of these people demanding of the school board that the schools be closed. The fact that there were 2,500 people demanding it doesn't in any way influence me with respect to the fact that the law must be enforced.

What it does indicate to me is that you are going to need personnel. We had to have marshals down there. We had at one point three lawyers, including myself, down there. We still continue to have a lawyer right down there, right in Lafayette, Louisiana, right on top of that situation. We still have Federal marshals in those two parishes.

So the point is that you are going to have to devote more resources to enforcement. That was the point I was trying to make. That is not an excuse.

QUESTION. It's been about two months since you told the Chicago school board that if they didn't do something rather dramatic about faculty segregation, you might possibly come in and file a suit. Does this manpower shortage we have been hearing about today mean you don't have the troops to send in?

Mr. LEONARD. No, ma'am. Well, we do have the problem of resources if a lawsuit becomes necessary against the Chicago school board. I do not believe that we will find ourselves wanting for those resources. There is in preparation right now a response to the letter of the Chicago school board of July, I believe; and that letter should be finished this week.

QUESTION. And this will end this particular——

Mr. LEONARD. No. It is a response to the school board's letter and an analysis of the school board's offer, so to speak. And it sets the stage for controversy.

QUESTION. Jerry, I would like to pursue this gentleman's question. He feels that you have not answered it, and I feel the same. You claim that everything is settled now and you expect these professional attorneys to carry out their duties. And earlier you said that they had done nothing detrimental. What would you consider detrimental?

Mr. LEONARD. I am going to answer the question just once more, and I don't think you can take offense at the fact that I think you are really dragging it out.

I do not expect the professional people who have a license to practice law will do those things which are detrimental to the effort of the interests they serve; in this case the Government lawyers serving the interests of the public and the Federal Government.

Now, I just don't think that is going to happen. So you are asking me to speculate, and the one thing we try not to do is to speculate.

QUESTION. Might they serve the public in the future in antitrust cases and things of this nature?

Mr. LEONARD. That would be up to them.

QUESTION. Did your answer to the question about Chicago mean the Department has rejected Chicago's response to the case?

Mr. LEONARD. Not totally, but in part.

QUESTION. In part?

Mr. LEONARD. Yes.

QUESTION. Going back to the Taylor County case, two weeks ago Secretary Finch told us he wanted to appeal it. The words are just that clear. He also said, of course, if it goes to the court, he will not use fund cut-offs as long as the litigation continues; and we are talking about months, maybe years. What is holding up the decision from the Justice Department's angle?

Mr. LEONARD. I got the help of the experts. The appeal is being looked at right now, and it is in the pipeline over here, and we should have a decision very quickly.

QUESTION. Will you ask the Supreme Court to move it ahead of other cases? Will you ask for it to be expedited? Can it be?

Mr. LEONARD. I really don't know the answer to that question at this point. Mr. Norman has been working on the case with the Secretary's office, and I am just not completely familiar with the status of it at the moment. You will recall I was four weeks in Louisiana and last week in Chicago and I have got a little homework in catching up.

QUESTION. Not to irritate you, Jerry, but to define professionalism of people with a license to practice law, do you define "professionalism" in the general context we have been talking about it here as taking a case to the press and more or less trying it there?

Mr. LEONARD. I think there are some, Louise, who would take the position that in a professional organization you handle your in-house problems in-house. And there is some strong feeling around this Department about that.

I feel the opposite. I think that public controversy over legitimate public matters is healthy, provided that it isn't carried to the point where it begins to interfere with and become detrimental to the objectives of that particular agency.

QUESTION. I never was clear on whether you think what they did in any way has been

detrimental. I think you feel it has not been, but I'm not sure.

Mr. LEONARD. I certainly don't think that—you mean what has happened thus far?

QUESTION. Yes, all that's gone on so far.

Mr. LEONARD. I wouldn't say it is detrimental. There are some who would like to think I am embarrassed by it, but I'm not, Carl, I'm still not embarrassed.

QUESTION. What color is your face, sir? You're blushing.

QUESTION. If the court can enforce its decision if there is instant integregation, couldn't the Eisenhower Administration have said that in '57? Couldn't the Kennedy Administration have said that in '62? In effect, aren't you asking for a slowdown when you say something like that, that the court couldn't enforce its decision?

Mr. LEONARD. I think that's just a governmental fact of life. The Executive Branch has to enforce it.

QUESTION. They could have argued back in '57 and '62——

Mr. LEONARD. You don't get the point.

QUESTION. If they come down with a ruling like that, what is the Administration going to do?

Mr. LEONARD. It seems to me the Executive Branch of Government has to do everything it can within the fiscal limitations imposed upon it by the Legislative Branch of Government to enforce the court order. Do you get the point?

Look, the court, you know—in the words of a former Chief Justice: "I have neither purse nor sword."

Now, the Executive has got the sword, the physical resources. But the Legislative Branch has got the purse, you see. And you have got to have people and bodies and, ordinarily as altruistic as many of us are, most of us work for a living because we have to. So you have to have the bodies to get the job done.

QUESTION. In view of the realities you just outlined, would you say that desegregation is a priority item for this Administration?

Mr. LEONARD. I wish I were more certain with respect to all the facts, but I believe that the Civil Rights Division of the Justice Department was one of the few supplemental appropriations supported by the President. The full request for 1970 was supported by the President and the Attorney General. And I believe that thus far the Attorney General has approved the full requested appropriation for 1971. That is still in the administrative pipeline, but at least up to this point he has approved it.

Well, at any rate, I certainly would think that from the standpoint of resources, the President has been most generous in supporting the Civil Rights Division.

QUESTION. You say it's been generous. But my question is: Do you think that it is a priority item?

Mr. LEONARD. The civil rights law enforcement? Yes.

QUESTION. You have said a number of times that the decision to delay was a sound decision. Would you say that a decision not to delay would also have been a sound decision?

Mr. LEONARD. I think that you have a really tough question. And let me answer the question in this way because I did not make the decision.

Had the Secretary opted to go ahead with those cases, this Department and this Division would have done everything that it could to have tried to implement that decision.

I frankly think you would have been faced with massive litigation efforts, school closings, massive boycotting; and I believe that in the end it would have taken years and years and years to bring those districts back again.

I believe that the plan that is now being laid out by HEW, when they had meetings down at Mississippi State last week and the week before with the school board superintendents, with some of the principals and some of the school board chairmen, I think that they have got every prospect of making the desegregation process in those thirty-three districts successful next year.

I don't know if I answered your question. I think you could have opted the other way. But frankly, I do not think to opt the other way would have been sound in the long run.

QUESTION. By "next year," are you speaking of January or September?

Mr. LEONARD. I am talking about September.

Now, certainly there are some things that can be done before that. But I am talking about the total desegregation process.

Are there any more questions?

QUESTION. Thank you.

(Whereupon, at 2:50 o'clock p.m., the press conference was concluded.)

[Supreme Court of the United States, No. 632—OCTOBER TERM, 1969]

BEATRICE ALEXANDER ET AL., PETITIONERS *v.* HOLMES COUNTY BOARD OF EDUCATION ET AL.

(On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit, October 29, 1969.)

Per Curiam.

These cases come to the Court on a petition for certiorari to the Court of Appeals for the Fifth Circuit. The petition was granted on October 9, 1969, and the case set down for early argument. The question presented is one of paramount importance, involving as it does the denial of fundamental rights to many thousands of school children, who are presently attending Mississippi schools under segregated conditions contrary to the applicable decisions of this Court. Against this background the Court of Appeals should have denied all motions for additional time because continued operation of segregated schools under a standard of allowing "all deliberate speed" for desegregation is no longer constitutionally permissible. Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. *Griffin* v. *School Board*, 377 U.S. 218, 234 (1964); *Green* v. *County School Board of New Kent County*, 391 U.S. 430, 438–439, 442 (1968). Accordingly.

It is hereby adjudged, ordered, and decreed:

1. The Court of Appeals' order of August 28, 1969, is vacated, and the cases are remanded to that court to issue its decree and order, effective immediately, declaring that each of the school districts here involved may no longer operate a dual school system based on race or color, and directing that they begin immediately to operate as unitary school systems within which no person is to be effectively excluded from any school because of race or color.

2. The Court of Appeals may in its discretion direct the schools here involved to accept all or any part of the August 11, 1969, recommendations of the Department of Health, Education, and Welfare, with any modifications which that court deems proper insofar as those recommendations insure a totally unitary school system for all eligible pupils without regard to race or color.

The Court of Appeals may make its determination and enter its order without further arguments or submissions.

3. While each of these school systems is being operated as a unitary system under the order of the Court of Appeals, the District Court may hear and consider objections thereto or proposed amendments thereof, provided, however, that the Court of Appeals' order shall be complied with in all respects while the District Court considers such objections or amendments, if any are made. No amendment shall become effective before being passed upon by the Court of Appeals.

4. The Court of Appeals shall retain jurisdiction to insure prompt and faithful compliance with its order, and may modify or amend the same as may be deemed necessary or desirable for the operation of a unitary school system.

5. The order of the Court of Appeals dated August 28, 1969, having been vacated and the case remanded for proceedings in conformity with this order, the judgment shall issue forthwith and the Court of Appeals is requested to give priority to the execution of this judgment as far as possible and necessary.

DEPARTMENT OF JUSTICE,
Washington, November 4, 1969.

Re *United States* v. *Hinds County School Board, et al.*, and other consolidated cases

Hon. GRIFFIN BELL,
U.S. Circuit Judge,
U.S. Courthouse,
Atlanta, Ga.
Hon. HOMER THORNBERRY,
U.S. Circuit Judge,
U.S. Courthouse,
Austin, Tex.
Hon. LEWIS R. MORGAN,
U.S. Circuit Judge,
U.S. Courthouse,
Newnan, Ga.

DEAR JUDGES BELL, THORNBERRY, AND MORGAN: In accordance with this Court's order of October 31, 1969, I am forwarding herewith a Proposed Order in the above cases.

Please permit me to make a few comments by way of explanation and observation:

1. Our Proposed Order reflects our belief that the burden of desegregation remains on the school board. "Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools." *Alexander* v. *Holmes County Board of Education, et al.*

2. There are obviously alternative methods which may accomplish a constitutionally adequate result. It is our belief that the school boards should be permitted to choose among such alternatives provided that they are able to make such decisions within the time established by the Court. From the Supreme Court decision this must, obviously, be a short period of time.

3. The decision also allowed for alternate plans either by the parties or by the Department of Health, Education and Welfare, and the Proposed Order enclosed provides the Court with those options.

4. In our Proposed Order, we have not presumed to set specific dates within which orders of the Court should be issued and carried out. We anticipate that this issue, among others, will be the subject of the informal conference scheduled for November 6, 1969.

5. We have not here offered specific orders for specific school districts; since, if the Court permits a very short time for the school boards to submit alternative plans, that will be the time for the fashioning and issuance of specific orders running to individual school districts.

Sincerely,

JERRIS LEONARD,
Assistant Attorney General, Civil Rights Division.

[In the United States Court of Appeals for the Fifth Circuit, Nos. 28030 & 28042]

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT, *v.* HINDS COUNTY, SCHOOL BOARD, ET AL., DEFENDANTS-APPELLEES, AND OTHER CONSOLIDATED CASES

PROPOSED ORDER

Upon the basis of the Judgment and Order of the United States Supreme Court in cases

styled *Alexander* v. *Holmes County Board of Education*, —— U.S. —— (O.T. No. 632, decided October 29, 1969), and pursuant to the directives of this Court of October 31, 1969, and November 3, 1969.

It is ordered:

(1) That defendant school boards shall, not later than 5:00 p.m. on ——, (a date to be determined by the Court) file with this Court proposed plans for the desergregation of their respective school districts which said plans shall meet the requirements set out by the Supreme Court in the cases styled *Alexander* v. *Holmes County Board of Eductaion, supra*, "to terminate dual school systems at once" and which will provide that defendant school districts will "operate now and hereafter only unitary schools"; and which will "insure a totally unitary school system for all eligible pupils without regard to race or color".

(2) That the other parties hereto may, not later than 5:00 p.m. on —— (a date to be determined by the Court) submit amendments to the plans offered by defendants herewith or alternate plans, which said plans shall meet the requirements set out by the Supreme Court in the cases styled *Alexander* v. *Holmes County Board of Education, supra*, as more fully set out in paragraph 1 above.

(3) That the United States Office of Education, Department of Health, Education & Welfare is requested to consult with the defendant school boards, and the defendant boards are ordered to seek consultation of the Office of Education, in order to carry out their obligations pursuant to paragraph 1 hereof; the Office of Education is requested to file with this Court a report of the results of its dealings with the defendant school boards not later than 5:00 p.m. on —— (a date to be determined by the Court) which report may suggest amendments to the school boards' plans or alternate plans, which plans shall meet the requirements set out by the Supreme Court in the cases styled *Alexander* v. *Holmes County Board of Education, supra*, as more fully set forth in paragraphs 1 above.

(4) That the defendant school boards shall take all steps necessary and proper to implement the plans ordered by this Court not later than the beginning of the school day of —— (a date to be determined by the Court) and any party may, subsequent to said date, file with the district court, and the district court may hear and consider, objections or proposed amendments thereto; provided, however, that the plans adopted by this Court shall be complied with in all respects while the district court considers such objections and amendments, if any, and no amendment shall become effective prior to approval by this Court.

(5) That all plans and reports submitted pursuant to paragraphs 1, 2 and 3 above shall, simultaneously with the filing with the Clerk of this Court, be served personally upon the opposing counsel as follows: upon counsel for defendants at their respective offices within the Southern District of Mississippi; upon the United States by service upon the United States Attorney, Jackson, Mississippi; upon counsel for private plaintiffs, at their offices, 538½ North Farish Street, Jackson, Mississippi.

(6) That the Order applied for herein shall be made applicable to all of the defendant school districts heretofore consolidated with the above-captioned case in this Court and all orders made applicable hereto shall be likewise applicable to all parties thereto.

(7) That pursuant to the Judgment of the Supreme Court of the United States this Court expressly retains jurisdiction of these matters for the purpose of insuring prompt, faithful and unimpeded compliance with its orders.

(8) That personal service of this Order shall be made upon all defendants by the United States Marshal assigned to the United States District Court for the Southern District of Mississippi forthwith; by service on the United States Attorney, Jackson, Mississippi, upon counsel for private plaintiffs at their law offices, 538½ North Farish Street, Jackson, Mississippi; upon the United States Office of Education, Department of Health, Education and Welfare by service on the United States Attorney, Jackson, Mississippi.

Revolt at Justice

(By Gary J. Greenberg)

(Note.—Gary J. Greenberg is the former leader of the attorneys' "revolt" in the Civil Rights Division of the Department of Justice. Until forced to resign on October 1st, he had been a senior trial attorney in the Division's Appeals Unit.)

When a lawyer is admitted to the bar, he takes an oath to support the Constitution of the United States. When a lawyer joins the Department of Justice, he takes another oath—the same one that is taken by the Attorney General and, in fact, by all federal employees.

That oath reads: "I 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, and without any mental reservation of 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."

It was largely because of this oath—and the pressures we were under to violate it—that a majority of the attorneys from the Civil Rights Division of the Department of Justice gathered in a Washington apartment last August. We wanted to ascertain whether, under the Constitution, there was any legal argument which might conceivably support the Nixon Administration's request in a Mississippi courtroom, for a delay in implementing desegregation in 33 of that state's school districts. The assembled lawyers concluded that there was not. Thus was born the reluctant movement which the press was to call "the revolt" in the Civil Rights Division.

August 19, 1969, was an historic date in the field of civil rights. It was on that day that Robert H. Finch, the Secretary of Health, Education and Welfare, in letters to the United States District Judges for the Southern District of Mississippi and to the Chief Judge of the United States Fifth Circuit Court of Appeals, sought to withdraw school desegregation plans that his department had filed in the district court a week earlier. It marked the first time—since the Supreme Court's 1954 decision in *Brown* v. *Board of Education*—that the United States had broken faith with the black children of Mississippi and aligned itself with the forces of delay on the issue of school desegregation.

Less than a week later—on August 25th—Attorney General John N. Mitchell placed the Department of Justice imprimatur on Finch's actions when Jerris Leonard, the Assistant Attorney General in charge of the Civil Rights Division, joined local officials in a Mississippi district court to argue for a delay.

The same day, in Washington, some of my colleagues in the Civil Rights Division and I prepared and distributed a memorandum inviting the Division's attorneys to a meeting the next evening to discuss these and other recent events which had, in the words of the memo, cast ominous shadows over "the future course of law enforcement in civil rights." The meeting's purpose was "to determine whether we have a common position and what action, if any, would be appropriate to take."

The 40 who attended the meeting that next night first heard detailed factual accounts from those lawyers with first-hand knowledge of the government's actions in school desegregation cases in Mississippi, Louisiana, and South Carolina. We discussed the legal principles at length. We could find, as lawyers, no grounds for these actions that did not run cross-grain to the Constitution. We concluded that the request for delay in Mississippi was not only politically motivated but unsupportable under the law we were sworn to uphold. I then asked whether the attorneys in the Civil Rights Division should protest the actions of Messrs. Mitchell, Finch, and Leonard. Much to my astonishment, the answer was an unhesitating, unequivocal, and unanimous call for action.

But how? The group's immediate, though probably unattainable, goal was a reversal of the Justice Department's action in Mississippi. Beyond that, however, we wanted to insure that future Mississippi-type decisions would not be made; we wanted guarantees that the Administration would, in the future, take the actions that were compelled by law, without reference to the political exigencies. We hoped that the protest could serve as a deterrent to future political accommodation. We agreed to write a dignified and reasonable statement of protest by which we could make our views known and demonstrate our unity and resolve. We chose a committee of six to draft the document.

Two evenings later, on August 28th, we held another meeting to review the draft submitted by the committee. The 50 attorneys in attendance discussed the draft, modified it somewhat, and then adopted it unanimously. (It was later signed by 65 of the 74 non-supervisory attorneys in the Civil Rights Division, some of whom had missed one or both of the meetings because they were out of town.)

The four-paragraph, 400-word document expressed, in painstaking language, the continuing concerns, motivations, and goals of the signatories. The last two paragraphs said:

It is our fear that a policy which dictates that clear legal mandates are to be sacrificed to other considerations will seriously impair the ability of the Civil Rights Division, and ultimately the Judiciary, to attend to the faithful execution of the federal civil-rights statutes. Such an impairment, by eroding public faith in our constitutional institutions, is likely to damage the capacity of those institutions to accommodate conflicting interests and insure the full enjoyment of fundamental rights for all.

We recognize that, as members of the Department of Justice, we have an obligation to follow the directives of our departmental superiors. However, we are compelled, in conscience, to urge that henceforth the enforcement policies of this Division be predicated solely upon relevant legal principles. We further request that this Department vigorously enforce those laws protecting human dignity and equal rights for all persons and by its actions promptly assure concerned citizens that the objectives of those laws will be pursued.

Why did the consciences of 65 federal employees compel them to protest a government law-enforcement decision? Why did 65 members of a profession which generally attracts the conservative and circumspect to its ranks—and reinforces these characteristics in three years of academic training—launch the first "revolt" within the federal bureaucracy?

Part of the answer lies in the fact that the new Administration was elected largely by voters who expected—and, from the rhetoric of the campaign, had every reason to expect—a slowdown in federal civil-rights enforcement efforts. Those political debts ran counter to the devotion and commitment of the attorneys in the Civil Rights Division. They had labored long and hard in civil-rights law enforcement, and had come to realize by experience that only unremitting

pressure could bring about compliance with the civil-rights statutes and the Fourteenth Amendment. Yet this conflict of commitments did not of itself lead to the revolt. There was no inevitability in the situation.

Certain other irritants played a part in creating an attitude among the attorneys which made "revolt" possible. There was Mr. Leonard himself, a politician from Wisconsin with no background in civil rights, and, indeed, very little as a lawyer. He was insensitive to the problems of black citizens and other minority-group victims of discrimination. Almost from the beginning, he distrusted the attorneys he found in the Division. He demonstrated that distrust by isolating himself from the line attorneys. Still another element was the shock of his ineptitude as a lawyer. In marked contrast to the distinguished lawyers who preceded him in his job, Mr. Leonard lacks the intellectual equipment to deal with the legal problems that come across his desk.

His handling of the Mississippi case enlarged this mood of irritaton and frustration. Secretary Finch's letter—drafted in part, and approved in full, by Mr. Leonard—said that the HEW plans were certain to produce "a catastrophic educational setback" for the school children involved. Yet the Office of Education personnel who prepared the plans, and Dr. Gregory Anrig, who supervised their work, and the Civil Rights Division attorneys who are preparing to defend them in court, had found no major flaws. Indeed, Dr. Anrig, in transmitting the plans to the district court on August 11th, wrote that in his judgment "each of the enclosed plans is educationally and administratively sound, both in terms of substance and in terms of timing." It was not until the afternoon of August 20th, only hours before the attorneys were to defend the plans in court, that Mr. Leonard called them in Mississippi to inform them of the Administration's decision. Finally, in justifying the government's actions to his own supervisory attorneys—and in arranging that they, and not he, would inform the line attorneys of the reasons for the requested delay—Mr. Leonard could be no more candid than to say that the chief educator in the country had made an educational decision and that the Department of Justice had to back him up.

But, again, these superficial signs of malaise were not what led to the lawyers' widespread revolt. Discontent only created the atmosphere for it.

The revolt occurred for one paramount reason: the 65 attorneys had obligations to their profession and to the public interest. As lawyers, we are bound by the Canons of Professional Ethics and by our oaths upon admission to the bar; as officers of the United States, we were bound by our oaths of office.

Membership in the bar entails much more than a license to practice law. One becomes an officer of the courts, duty-bound to support the judiciary and to aid in every way in the administration of justice. The scope of ths duty was nicely summarized by United States District Judge George M. Bourquin in the case of *In re Kelly* in 1917, when he wrote:

"Counsel must remember that they, too, are officers of the courts, administrators of justice, oath bound servants of society, that their first duty is not to their clients, as many suppose, but is to the administration of justice; that to this their clients' success is wholly subordinate; that their conduct ought to and must be scrupulously observant of law and ethics, and to the extent that they fail therein, they injure themselves, wrong their brothers at the bar, bring reproach upon an honorable profession, betray the courts, and defeat justice."

The Canons of Ethics command that an attorney "obey his own conscience" (Canon 15) and strive to improve the administration of justice (Canon 29). The Canons go on to echo Judge Bourquin's words:

"No . . . cause, civil or political, however important, is entitled to receive, nor should any lawyer render, any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold. . . . When rendering any such improper service . . . the lawyer invites and merits stern and just condemnation. . . . Above all a lawyer will find his highest honor in a deserved reputation for fidelity to . . . public duty, as an honest man and as a patriotic and loyal citizen." (Canon 32)

Bearing these obligations in mind, examine for a moment the situation which confronted the attorneys as a result of the decision to seek delay in Mississippi.

In May, 1954, the Supreme Court declared that "in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." One year later, the Court decreed that school officials would be required to make a "prompt and reasonable start" toward achieving the constitutional goal with "all deliberate speed." Tragically, a decade went by and little was accomplished; that was the era of "massive resistance." In 1964, the Supreme Court ruled that "the time for more 'deliberate speed' has run out." In 1968, the Court held that school officials were under a constitutional obligation to come forward with desegregation plans that worked, and to do so "now." The Fifth Circuit Court of Appeals interpreted that edict, in the summer of 1968, to mean that the dual school system, with its racially identifiable schools, had to be eliminated in all the states within its jurisdiction by September, 1969. (Mississippi is one of those states.)

Secretary Finch's letter, besides suggesting the possibility of a catastrophic educational setback if desegregation were effected at once, spoke of the certainty of chaos and confusion in the school districts if delay were not allowed. That allegation was based upon the uncontestable existence of hostility to desegregation within the local communities. While there was, and continues to be, a danger that chaos and confusion will accompany the desegregation of public schools in Mississippi, the Supreme Court had ruled again and again that neither opposition to constitutional rights nor the likelihood of a confrontation with those opposed to the constitutional imperative may legally stand as a bar to the imediate vindication of those rights.[1]

Thus, while pledged by our oaths to support and defend the Constitution and bound by duty to follow our conscience and adhere to the law, we faced a situation in which the Administration had proposed to act in violation of the law. We knew that we could not remain silent, for silence, particularly in this Administration, is interpreted as support or acquiescence. Only through some form of protest could we live up to our obligations as lawyers and as officers of the United States. The form that this protest should take emerged so clearly that it then became a matter of inevitability, rather than a "choice" made from among several alternatives.

For the duty to serve the law, to promote the administration of justice, to support and defend the Constitution is more than a negative command, it is more than a "thou shalt not." It is an affirmative duty to act in a manner which would best serve and promote those interests. Thus, at the first group meeting, we immediately and unanimously rejected the notion of mass resignation because it would have served no positive purpose. It would only have removed us from association with the supporters of delay; it would not have fulfilled our obligation to act affirmatively to insure that constitutional rights would be protected and that the civil-rights laws would be vigorously enforced.

Many of the attorneys thought that our obligation could not be met by merely drafting, signing, and delivering a protest statement. If delay for the purpose of mollifying a hostile community did not comport with the Constitution—thus impelling us to raise our voices in protest—then we were likewise duty-bound not to support the Mitchell-Finch-Leonard position through any of our official actions. The bureaucratic concept of "loyalty" notwithstanding, some of us concluded that we could not, for example, defend the government's position in court.

The question arises as to whether the action taken by the group met the burden imposed upon us by our obligations to the law and the public interest. Did our fidelity to these obligations demand more than the soft and lofty importunings of the protest statement? Should all the attorneys have explicitly refused to defend in court the action taken in the Mississippi case? Should the attorneys have embarked on a more direct course of action to block the government's efforts to win a year's delay for school desegregation in Mississippi?

To begin with we were hard pressed to come up with some appropriate alternative to the protest statement as a vehicle to make the views of 65 people known. But beyond that, it was vitally important to preserve the appearance of dignity and professionalism if our protest were not to be dismissed as the puerile rantings of a group of unresurrected idealists who, except for their attire, bore a close resemblance to the Weathermen and the Crazies. To generate the public support we thought vital to the success of the protest, we had to act in a responsible and statesmanlike manner. Furthermore, it seemed to us that the presentation of any statement signed by nearly all of the attorneys in the Division would be a remarkable feat and that that demonstration of commitment was more important than the words actually used. In our view, the soft language implied everything that a blunter statement might have said. It also had the virtue of not putting the Administration up against a wall, thus forcing them to respond with a hardline position of their own.

Though duty and conscience compelled a protest, reason dictated the nature of the protest. We did not merely seek an opportunity for catharsis: we sought to devise a course of action which had a chance to reap a harvest of practical results. That being the overriding consideration, the attorneys chose the course of a mildly-worded group statement. Other overt manifestations of disagreement were left open for individuals to pursue as they saw fit.

The group action we took—that is, the drafting and signing of the statement—was a "protest," if by that we mean a dissent from the actions of one's administrative superiors. The language of the statement did not move into the area of "revolt," if by that we mean an explicit refusal to obey the orders of one's superiors—although the statement was intended to imply that "revolt" was in the air.

Compelled by what they felt to be their obligations to the law, individual attorneys took a number of actions on their own, most of them in that murky area where there is a confluence between "protest" and "revolt."

Even before the first group meeting, the Division lawyers in Mississippi expressed their disincilnation to present the government's case for delay in the district court. As a consequence, Mr. Leonard made his first appearance in a federal district court as Assistant Attorney General and argued the

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Footnotes at end of article.

motion for delay himself. In mid-September, two Division attorneys (the author being one) appeared in federal courts in other school desegregation cases. When pressed by those courts to reconcile the government's "desegregate-now" position in those cases with Mr. Leonard's position in Mississippi, both attorneys said they could not defend the government's action in Mississippi.[2] Some of the Division's attorneys went a step further: they passed information along to lawyers for the NAACP Legal Defense Fund in order to aid their Mississippi court battle against the delay requested by the Administration. Others spoke with the press to insure that the public was fully aware of the role that political pressures had played in the decision to seek delay.

These actions, while neither authorized nor approved by the group as a whole, were individual responses to the same crisis of conscience that led to the protest statement itself. One may have reservations as to the propriety of some or all of these acts of definance. (Indeed, I have doubts as to whether it was proper for a Division attorney to furnish information to the NAACP after the government's action transformed it into an opposing party.) But it is important to recognize that the demands of conscience compelled more than just the signing of a piece of paper, and, in this sense, the protest was, realistically, a "revolt."

When the storm clouds first began to gather within the Civil Rights Division, the heirarchy of the Department of Justice, including the Attorney General and Mr. Leonard, reacted with a professed sense of surprise, and even shock. Despite this, however, the Administration's actions were, at the outset, nothing short of accommodating.

The supervisory attorneys in the Division took the position that we had a perfect right, under the First Amendment, to meet and discuss matters of mutual concern. Prior to our second meeting, Leonard Garment, President Nixon's special consultant for youth and minority problems, let it be known through an intermediary that the Administration was likely to respond favorably to a reasonable and responsible protest. Indeed, Mr. Garment and the Deputy Attorney General, Richard G. Kleindienst, facilitated the protest by allowing us to hold our second meeting behind closed doors in the Department of Justice.

But later, when the Administration came to a fuller appreciation of the depth and unanimity of the protest, this attitude began to change.

On September 18th, Mr. Leonard responded to the attorneys' statement for the Administration. We were informed that the reply was a final articulation of policy and that if we did not like what we read we should resign. The reply was curiously unresponsive. Whereas the attorneys' statement was carefully limited to questions concerning the intrusion of political influences into areas of law enforcement where only considerations of law belong, Mr. Leonard's reply outlined how the Administration would go about desegregating public schools. To this extent the reply completely missed, or avoided, the point of the protest. We had never challenged the discretionary authority of the Attorney General and the President to determine by what method the constitutional objective would be achieved. In matters where discretion was vested in the Attorney General to choose between policy alternatives, the attorneys did not challenge his right to make the choice. But in the matter of enforcing constitutionally required school desegregation in Mississippi, the Attorney General had no discretion. He was bound to uphold the dictates of the law, an obligation that could not be squared with the decision to seek delay.

Aside from its non-responsiveness to the questions we had raised, Mr. Leonard's reply was disturbing on two other counts. First, it conceded, with delayed candor, that political pressures had played a role in the Mississippi decision. Second, it anounced a new touchstone for civil-rights law-enforcement policies: future actions would be taken not on the basis of the law but, rather, on the basis of "soundness." Thus, when ABM and other defense appropriations are thrown into the balance, a decision to seek delay of school desegregation in Mississippi in return for the continued support of Senator John Stennis (D-Miss.) in defense matters can presumably be certified as a "sound" decision, notwithstanding its inconsistency with clear legal mandates.

The attorneys decided that we would neither accept the response nor resign. But the situation demanded further action, and we chose to reiterate our commitment to the law. On September 25th, we delivered to the Attorney General and Mr. Leonard a new statement. It expressed our view that Mr. Leonard's reply "indicates an intention to continue with the policy of civil-rights law enforcement toward which our August 29th statement was directed, a policy which, in our view, is inconsistent with clearly defined legal mandates."

The Attorney General's patience was wearing thin. The next day he told the press that "policy is going to be made by the Justice Department, not by a group of lawyers in the Civil Rights Division." At a news conference three days later, Mr. Leonard said that he thought the position taken by the attorneys was wrong. He warned that the revolt would have to end as of that date.

On October 1st, Mr. Leonard called me to his office. He told me that he considered it to be the obligation of all his attorneys to defend the government's Mississippi action in court. He asked whether I would be able to do so in the future. I said that I could not and would not. Our obligation was to represent the Attorney General, he said, and John Mitchell had decided that delay was the appropriate course to follow in Mississippi. I countered by explaining that my position dictated that I represent the public interest in court, and my responsibility was to enforce the law. Mr. Leonard then made his attitude on the meaning of law enforcement very clear. "Around here the Attorney General is the law," he said. The difference of opinion was irreconcilable, and I was told to resign or be fired. I said I would forthwith submit a letter of resignation, and did—effective immediately. Mr. Leonard concluded the meeting by heaping effusive praise upon my abilities as a lawyer and offering to write a glowing letter of recommendation if I requested one. I did not.

Later that day, Mr. Leonard issued a memorandum which banned any "further unauthorized statement . . . regarding our work and our policies." He directed the attorneys to keep all "discussions of our work and policies within this Department."

Thus, the Administration's official attitude boils down to an absolute ban on any further protest activity. The public is to be kept in the dark. Law-enforcement decisions are to be made by John Mitchell, and the test for those decisions is soundless, including the relevant political considerations. The attorney's job is to articulate and defend the Attorney General's decisions in court, and that obligation applies without reference to one's individual oath of office and the dictates of conscience.

As attorneys, I and my former colleagues who remain in the Civil Rights Division cannot accept this point of view. The Justice Department lawyer's prmary obligation must be to the Constitution. That should hold true whether the attorney is John Mitchell, Jerris Leonard, or Gary Greenberg. In his role as an officer of the United States, the Justice Department lawyer represents the public interest. While Jerris Leonard equates that obligation with obedience to the President and the Attorney General, I and my former colleagues could not. The Justice Department lawyer is not hired to represent John Mitchell in court. He is hired to represent the United States.

The ban on future protest by attorneys is unreal. Indeed, it would be self-deception for John Mitchell or Jerris Leonard to assume that the "massive resistance" in the Civil Rights Division is over. The revolt may have been driven underground, but the attorneys remain within the system. They retain their voice and their ability to influence policy from within. They continue to adhere to their view of the law, and they see their obligation to the public, and under their oath of office, as paramount. The attorneys remain a potent and organized deterrent ready to act should there be another Mississippi.

Whether or not the revolt achieved its long range objectives one cannot yet judge. There are indications that in the area of civil rights, as in other matters, the Attorney General is either unaware or contemptuous of the forces which conflict with the policies of the Southern Strategy. The attorneys in the Civil Rights Division continue to take a hard line in individual cases. They assume this posture every day in the pleadings and briefs they present to the Attorney General and Mr. Leonard for approval. So long as the Administration is kept in the position of having to say no, an attitude adopted so far in only those few cases in which the political pressures were intense—it is not likely that they can effect the wholesale retreat on enforcement of the civil rights laws which the Administration seems ready to permit in return for political support. But while it is vital that the revolutionaries remain within the Division, and while their presence within the system may deter future Mississippi-type decisions, there is some question whether their determination will sustain them for the next three and a half years. If not, the prospects for even the grudging enforcement of civil-rights laws are bleak indeed.

FOOTNOTES

[1] On October 29, of course, the Supreme Court unanimously rejected the Administration's efforts at delay by enunciating the rule that the Constitution requires desegregation "at once." That ruling is not a part of this narrative except as it demonstrated anew that the position we had taken on the law was unassailable.

[2] In my situation, I was in St. Louis before the Eighth Circuit Court of Appeals, sitting en banc (i.e., the full seven judges of the court were present), arguing that a delay granted by the district court to an Arkansas school district for the desegregation of its high schools should be reversed. One of the judges asked whether I could assure the court that the Attorney General would not "come along and pull the rug out from under" them if they ordered instant integration. I was pressed to reconcile my request for immediate integration in Arkansas with the position taken in the Mississippi case. After the court listened to my attempts to distinguish between the two cases, one judge said it appeared to the court that the practical effect of the government's posture was that Mississippi was being given special treatment. At this point, a number of judges called upon me to state my personal views on the contradictory positions taken by the government. I responded by saying, I assumed that the court knew from the press accounts of the "revolt" what the feelings were in the Division. I indicated that, as a signatory of the protest statement, I could not be expected to defend the government's action in Mississippi.

[From the Washington (D.C.) Post, Oct. 18, 1969]

MITCHELL SUPPRESSES DISSIDENT LAWYERS

(By Jack Anderson)

Attorney General John N. Mitchell is clamping down on the embattled civil rights

lawyers who have worked in shirtsleeves late into the night and have stood up to angry racists in Southern courtrooms.

Suddenly, the Justice Department has started to treat these action-toughened attorneys like pre-schoolers or Peking functionaries in regard to what they can and cannot say.

In a directive with explicit warning that it was to be kept confidential, Assistant Attorney General Jerris Leonard of the Civil Rights Division told his lawyers:

"I must object . . . to any further unauthorized statement to the press by attorneys in this division regarding our work and our policies . . . I therefore must direct all of you that we now keep our discussions of our work and policies within this department."

Behind Leonard's lockjaw order is the threat of the same kind of ugly firing that created the Mitchell regime's first civil rights martyr. He is Mr. Greenberg, a 27-year-old Harvard lawyer who was the division's senior appeals attorney.

Leonard gave him exactly two hours and 30 minutes to clear out after Greenberg refused to back the Nixon administration on Mississippi school desegregation—where Leonard has conceded the Justice Department is . . . at violations.

KREMLIN-STYLE DISMISSAL

A man less rash than Leonard might have found another assignment for the brilliant young lawyer. But the Kremlinesque nature of the firing, reported in detail here for the first time, explains much of the discontent in this once-crack division.

Leonard sat in his spacious office flanked by an American flag and a blow-up of a cartoon from his days as a Wisconsin politician. He had called in three aides—David ———, Gerald Choppin and Harold Flannery—to make a public execution of it.

Greenberg, a leader of the group of attorneys seeking to get Mitchell to enforce the civil rights laws, was asked to sit facing Leonard. This was the same young attorney who, for two years, had fought underdog battles for the Justice Department in Richmond, Jacksonville, Houston and San Francisco.

Only three weeks earlier, he had argued an appeals case on Arkansas schools and had carefully turned away a judge's query on Mississippi—where federal prosecution has suddenly gone slack. Now he was facing his boss.

Leonard questioned Greenberg amicably enough on the Arkansas case, then the conversation turned ominous.

"Can you defend the administration's Mississippi position in future cases?" Leonard demanded.

"I cannot in conscience defend the government's announced position in the Mississippi case," Greenberg replied honestly.

Leonard accused him of not knowing the facts of the case. As Greenberg sought to argue back, Leonard cut him off abruptly: "I have lost confidence in your ability to represent the Attorney General."

UPHOLDING CONSTITUTION

Greenberg retorted that he had always represented both the Attorney General and the public interest, then declared bluntly: "My oath of office requires that I support and defend the Constitution of the United States and vigorously enforce the civil rights laws."

Leonard snapped back that in the Justice Department, the Attorney General is the law. He told Greenberg to clear out by 5:30 p.m. It was then 3 o'clock.

Greenberg, father of three, who was also concerned about the effects of a sudden departure on his civil rights colleagues, asked if he might be allowed to resign in a month.

But Leonard was adamant.

"There is an old Irish saying," said Leonard. " 'When you start throwing shillelaghs around, you have to expect to get hit by one on the back of your head.' And if some of your colleagues feel as you do, they should quit right now."

Thus Greenberg, who had put in so many weeks of overtime for the division, was given two and a half hours to compose a forced letter of resignation, clear out his desk and leave the building.

[From the Washington (D.C.) Post, Oct. 5, 1969]

"RUNNING OFF AT THE MOUTH"

As defensive case-making goes, we believe the nation may have witnessed a legal breakthrough the other day in the remarks of the Assistant Attorney General for Civil Rights, Jerris Leonard, on the subject of school desegregation. It is not for us to say in what direction the breakthrough was made or even which way it was going when last seen. We heard only the crash and tinkle of forensic glass and knew we were in the presence of innovation. "Take the Mississippi situation out," lawyer Leonard said, "and give me one example where we have not vigorously enforced the civil rights law." Take the Mississippi situation out—the mind leaps to Sherman Adams (take the Goldfine situation out . . .), to Abe Fortas (take the Wolfson situation out . . .), to Lyndon Johnson (take the Vietnam situation out . . .), and to all the others who lost a case because they didn't have the wit to retain Mr. Leonard.

Depending on whether you view the Assistant Attorney General's riposte as a new high or a new low in the technique of self-defense, you will be able to judge whether or not you would want him representing you. But the fact is that he is meant to represent the interest of citizens—mostly black—whose civil rights have been (and are being) tromped upon. How does he view this mission? It is interesting that in the same week in which Attorney General Mitchell was banging the pots and pans for law and order ("I believe the Department of Justice is a law-enforcement agency. I think that persons who break the law ought to be promptly arrested and tried . . ."), his lieutenant in the Civil Rights Division was setting up a wholly different kind of ruckus. When he was asked about the views of those who make and interpret the laws and who have found themselves at odds with administration policy, he replied: "I don't care if it's judges, lawyers, legislators or whoever disagrees." He also made plain that these laws were not going to be enforced so long as numerous people found them inconvenient and resisted them. His reply to one reporter at a press conference gave a vivid outline of the limits of law enforcement as understood by Mr. Leonard:

The only thing that changes is the resistance that you run into, and you can't predict that. There is no way of predicting that. There was no way, for instance, of our predicting that 2500 whites were going to storm a school board meeting—and you should have stayed down there with me, Carl, you would have really learned something about this whole process. I mean it. Twenty-five hundred yelling, raging white people standing there in a high school auditorium, one woman with a noose demanding that the school board close the schools. Now I'll tell you something, Mr. Stern, even you would have voted to close the schools under those circumstances.

So much for law enforcement—one wonders: does the principle apply to campus disorders and uprisings in the ghetto as well? The Assistant Attorney General maintained that this special permissiveness was owing to lack of enforcement funds and personnel, not to a lack of devotion. Well, we shall see. Mr. Leonard's remarks were made by way of responding to the publication of a protest by the lawyers in his division against the Department's preventing them from carrying out "clearly defined legal requirements." It had been a very decorous and restrained rebellion, just as the criticism of the administration on this score, made by the Civil Rights Commissioners among others, had been notable for its responsible, more-in-sorrow tone. To this—mention of the Civil Rights Commission's complaints—Mr. Leonard had a reply too: "I think you've got a lot of people who are frankly running off at the mouth who don't know what the facts are." We think someone is running off at the mouth too—but we don't think it's the Civil Rights Commission.

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 Members (at the request of Mr. LUJAN); to revise and extend their remarks and include extraneous matter:)

Mr. SCHWENGEL, for 10 minutes, today.

Mr. POLLOCK, for 5 minutes, today.

Mr. RUPPE, for 15 minutes, on December 17.

(The following Members (at the request of Mr. STOKES); to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 10 minutes, today.

Mr. FARBSTEIN, for 20 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. PATMAN, for 10 minutes, today.

Mr. FARBSTEIN, for 20 minutes, on December 17.

Mr. THOMPSON of Georgia, for 30 minutes, on December 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAVIS of Wisconsin to revise and extend remarks made in connection with conference report on H.R. 14916.

Mr. GONZALEZ following the vote on S. 740.

Mr. THOMPSON of New Jersey to revise and extend remarks made on H.R. 14213.

Mr. RANDALL in two instances.

Mrs. GREEN of Oregon in four instances.

(The following Members (at the request of Mr. LUJAN) and to include extraneous matter:)

Mr. AYRES.

Mr. BROOMFIELD.

Mr. BROCK.

Mr. WYMAN in two instances.

Mr. CÓRDOVA.

Mr. BURKE of Florida.

Mr. HUNT.

Mr. GOODLING.

Mr. MORSE.

Mr. BROYHILL of Virginia.

Mr. DELLENBACK.

Mr. MCCLOSKEY.

Mr. BUCHANAN.

Mr. DICKINSON.

(The following Members (at the request of Mr. STOKES) and to include extraneous matter:)

Mr. PURCELL in two instances.

Mr. FARBSTEIN in four instances.

Mr. DOWNING in two instances.

Mr. THOMPSON of New Jersey in two instances.
Mr. MEEDS.
Mrs. HANSEN of Washington.
Mr. GALLAGHER.
Mr. OTTINGER in two instances.
Mr. DELANEY.
Mr. RODINO.
Mr. RARICK in two instances.
Mr. OLSEN.
Mr. GRIFFIN.
Mr. PATTEN.
Mr. RYAN in five instances.
Mr. BINGHAM in two instances.
Mr. CLAY in eight instances.
Mr. WOLFF in two instances.
Mr. ANDERSON of California.
Mr. HAGAN in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2244. An act to amend section 212(a) of the Interstate Commerce Act, as amended, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 11711. An act to amend section 510 of the International Claims Settlement Act of 1949 to extend the time within which the Foreign Claims Settlement Commission is required to complete its affairs in connection with the settlement of claims against the Government of Cuba.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 210. An act to eliminate requirements for disclosure of construction details on passenger vessels meeting prescribed safety standards, and for other purposes;

H.R. 4244. An act to raise the ceiling on appropriations of the Administrative Conference of the United States;

H.R. 11711. An act to amend section 510 of the International Claims Settlement Act of 1949 to extend the time within which the Foreign Claims Settlement Commission is required to complete its affairs in connection with the settlement of claims against the Government of Cuba; and

H.J. Res. 10. Joint resolution authorizing the President to proclaim the second week of March, 1970, as Volunteers of America Week.

ADJOURNMENT

Mr. STOKES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 17, 1969, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1415. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the joint resolution authorizing appropriations for the payment by the United States of its share of the expenses of the Pan American Railways Congress Association; to the Committee on Foreign Affairs.

1416. A letter from the Comptroller General of the United States, transmitting a report of proposals for improving internal audit in the Department of State; to the Committee on Government Operations.

1417. A letter from the Archivist of the United States, transmitting a report of records proposed for disposal under the law; to the Committee on House Administration.

1418. A letter from the Assistant Comptroller General of the United States, transmitting a report concerning the claim of Anthony P. Miller, Inc., against the United States, pursuant to the provisions of 31 U.S.C 236; to the Committee on the Judiciary

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. PERKINS: Committee on Education and Labor. H.R. 860. A bill to amend section 302(c) of the Labor-Management Relations Act, 1947, to permit employer contributions for joint industry promotion of products in certain instances; with amendments (Rept. No. 91–756). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee on Internal Security. H.R. 14864. A bill to amend the Internal Security Act of 1950 to authorize the Federal Government to institute measures for the protection of defense production and of classified information released to industry against acts of subversion, and for other purposes; without amendment (Rept. No. 91–757). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELANEY: Committee on Rules. House Resolution 754. Resolution for consideration of H.R. 14944, a bill to authorize an adequate force for the protection of the Executive Mansion and foreign embassies, and for other purposes. (Rept. No. 91–758). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 755. Resolution for consideration of H.R. 15091. A bill to lower interest rates and fight inflation, to help housing, small business, and employment, and for other purposes (Rept. No. 91–759). Referred to the House Calendar.

Mr. YOUNG: Committee on Rules. House Resolution 572. Resolution amending House Resolution 200, 91st Congress; with amendments (Rept. No. 91–760). Referred to the House Calendar.

Mr. PERKINS: Committee of Conference. Conference report on S. 2917 (Rept. No. 91–761). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR:

H.R. 15273. A bill to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. BEALL of Maryland:

H.R. 15274. A bill to provide additional benefits for optometry officers of the uniformed services; to the Committee on Armed Services.

By Mr. CARTER:

H.R. 15275. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus personal property to State fish and wildlife agencies; to the Committee on Government Operations.

H.R. 15276. A bill to amend the Uniform Time Act of 1966 to provide that daylight saving time shall begin on Memorial Day and end on Labor Day of each year; to the Committee on Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN:

H.R. 15277. A bill to prohibit certain uses of the names of members of the Armed Forces who have died as a result of combat actions, and for other purposes; to the Committee on the Judiciary.

By Mr. CONTE:

H.R. 15278. A bill to establish a Joint Committee on Environmental Quality; to the Committee on Rules.

By Mr. FRIEDEL:

H.R. 15279. A bill to amend the Railroad Retirement Act of 1937 to provide a 15-percent across-the-board increase in annuities and pensions thereunder (with a minimum retirement annuity of $80 a month); to the Committee on Interstate and Foreign Commerce.

By Mr. GALLAGHER:

H.R. 15280. A bill to enable consumers to protect themselves against arbitrary, erroneous, and malicious credit information; to the Committee on Banking and Currency.

By Mr. KLEPPE:

H.R. 15281. A bill to establish a Joint Committee on Environmental Quality; to the Committee on Rules.

By Mr. KYL:

H.R. 15282. A bill to reform certain provisions of the income tax laws; to the Committee on Ways and Means.

By Mr. McDONALD of Michigan:

H.R. 15283. A bill to prohibit the furnishing of mailing lists and other lists of names or addresses by Government agencies to the public in connection with the use of the U.S. mails, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. NIX:

H.R. 15284. A bill to amend the Annual and Sick Leave Act of 1951, as amended, to provide home leave for Federal seafaring personnel and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. O'NEILL of Massachusetts (for himself, Mr. FUQUA, Mr. FALLON, Mr. WHITEHURST, Mr. DONOHUE, Mr. SANDMAN, Mr. CRAMER, Mr. FREY, and Mr. CONTE):

H.R. 15285. A bill to create a marine resources conservation and development fund; to provide for the distribution of revenues from Outer Continental Shelf lands; and for other purposes; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts (for himself, Mr. FUQUA, Mr. FALLON, Mr. WHITEHURST, Mr. DONOHUE, Mr. SANDMAN, Mr. CRAMER, Mr. FREY, and Mr. CONTE):

H.R. 15286. A bill to grant to each coastal State mineral rights in the subsoil and seabed of the Outer Continental Shelf extending to a line which is 12 miles from the coast of such State, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH:

H.R. 15287. A bill to amend title 39, United States Code, to provide that sexually provocative mail matter otherwise legally acceptable in the mails shall be sent by registered mail;

to the Committee on Post Office and Civil Service.

By Mr. BRADEMAS (for himself, Mr. PERKINS, Mr. SCHEUER, Mr. REID of New York, Mr. HANSEN of Idaho, Mrs. MINK, Mr. DELLENBACK, Mr. WILLIAM D. FORD, Mr. MEEDS, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. HATHAWAY, Mr. O'HARA, Mr. GAYDOS, Mr. HELSTOSKI, Mr. MORSE, Mr. HAWKINS, Mr. STOKES, Mr. HOSMER, Mr. CLAY, Mr. MACGREGOR, Mr. HAMILTON, Mr. WHITEHURST, and Mr. YATES):

H.R. 15288. A bill to authorize the U.S. Commissioner of Education to establish educational programs to encourage understanding of policies and support of activities designed to enhance environmental quality and maintain ecological balance; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. SCHEUER, Mr. REID of New York, Mr. HANSEN of Idaho, Mr. PODELL, Mr. MCCLORY, Mr. REES, Mr. BUTTON, Mr. SYMINGTON, Mr. RIEGLE, Mr. UDALL, Mrs. HECKLER of Massachusetts, Mr. KOCH, Mr. DINGELL, Mr. MIKVA, Mr. BROWN of California, Mr. ROONEY of Pennsylvania, Mr. BINGHAM, Mr. OTTINGER, Mr. ST. ONGE, Mr. PEPPER, Mr. MOLLOHAN, Mr. PIKE, and Mr. FARBSTEIN):

H.R. 15289. A bill to authorize the U.S. Commissioner of Education to establish educational programs to encourage understanding of policies and support of activities designed to enhance environmental quality and maintain ecological balance; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. SCHEUER, Mr. REID of New York, Mr. HANSEN of Idaho, Mr. MOORHEAD, Mr. BIAGGI, Mr. KASTENMEIER, Mr. OBEY, Mr. ANDERSON of California, Mr. TUNNEY, Mr. FRIEDEL, and Mr. GILBERT):

H.R. 15290. A bill to authorize the U.S. Commissioner of Education to establish educational programs to encourage understanding of policies and support of activities designed to enhance environmental quality and maintain ecological balance; to the Committee on Education and Labor.

By Mr. BRASCO:

H.R. 15291. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. COHELAN:

H.R. 15292. A bill to establish a Joint Committee on Environmental Quality; to the Committee on Rules.

By Mr. FARBSTEIN:

H.R. 15293. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. FISH:

H.R. 15294. A bill to prohibit the use of the name of any of certain deceased servicemen unless consent to so use the name is given by the next of kin of the serviceman; to the Committee on Judiciary.

By Mr. KOCH (for himself, Mr. COHELAN, Mr. CULVER, Mr. HAWKINS, Mr. HUNGATE, Mr. JACOBS, Mr. O'HARA, and Mr. ROYBAL):

H.R. 15295. A bill to provide for the establishment of a Commission on Marihuana; to the Committee on the Judiciary.

By Mr. PETTIS:

H.R. 15296. A bill to establish a Joint Committee on Environmental Quality; to the Committee on Rules.

By Mr. WIDNALL:

H.J. Res. 1034. Joint resolution to extend for 2 months the authority to limit the rates of interest or dividends payable on time and savings deposits and accounts; to the Committee on Banking and Currency.

By Mr. FISH:

H.J. Res. 1035. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on Judiciary.

By Mr. DAWSON:

H. Res. 752. Resolution providing for the expenses of conducting studies and investigations authorized by rule XI(8) incurred by the Committee on Government Operations; to the Committee on House Administration.

By Mr. WIGGINS (for himself, Mr. ZWACH, Mr. CHARLES H. WILSON, Mr. WHITEHURST, Mr. WEICKER, Mr. WALDIE, Mr. SHIPLEY, Mr. SCHNEEBELI, Mr. St GERMAIN, Mr. PETTIS, Mr. PATTEN, Mr. MATSUNAGA, and Mr. LUKENS):

H. Res. 753. Resolution for amendment to rule XV, Rules of the House of Representatives relating to calls of the roll and House; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of California:

H.R. 15297. A bill for the relief of In Kyong Yi; to the Committee on the Judiciary.

By Mr. FRASER:

H.R. 15298. A bill for the relief of Norma Blanchard; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 15299. A bill for the relief of Clarencia Sherburn; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

PROF. HARDY CROSS DILLARD ELECTED MEMBER OF INTERNATIONAL COURT OF JUSTICE

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, December 16, 1969

Mr. SPONG. Mr. President, the most recently elected member of the International Court of Justice at the Hague is Prof. Hardy Cross Dillard, former Dean of the University of Virginia Law School. Hardy Dillard is well known to many Members of the Senate. He was a law classmate at Virginia of our colleague, Senator JOHN STENNIS. Senators KENNEDY, PEARSON, SCOTT, and I, as alumni of the law school at Charlottesville, have had occasion to observe the humor, charm, and "keen perspective of the science of the law" mentioned in an editorial about Judge Dillard, published in the American Bar Association Journal for December 1969.

I ask unanimous consent that the editorial be printed in the Extensions of Remarks.

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

DILLARD OF THE WORLD COURT

(The writer of the following guest editorial, Eberhard P. Deutsch of New Orleans, is a former chairman of the American Bar Association Committee on Peace and Law Through United Nations and is now editor of The International Lawyer, the publication of the Section of International and Comparative Law.)

The election of Hardy Cross Dillard as a member of the International Court of Justice must inevitably give a measure of confidence in that tribunal to even its most cynical critics.

Judge Dillard was born in New Orleans in 1902, son of a distinguished educator, Dr James Hardy Dillard, Dean of arts and sciences at Tulane University and founder of Dillard University. He received his bachelor's degree from the United States Military Academy at West Point in 1925. In 1927 he was graduated in law from the University of Virginia, and from 1930 to 1931 he was a Carnegie fellow in international law at the University of Paris.

With the exception of a year in private practice in New York, his legal career has been exclusively in teaching—primarily at the University of Virginia Law School, of which he was dean from 1963 until his recent retirement. He also has been visiting professor of law at Columbia University, Fulbright lecturer at Oxford, Carnegie lecturer at the Hague Academy of International Law, and director of studies at the School of Military Government of the United States Army and at the National War College.

During World War II he had a distinguished military career in various command and staff assignments, and he is the holder of the Legion of Merit with Oak Leaf Cluster and of the Bronze Star.

Judge Dillard is a past president of the American Society of International Law, a member of the council of the American Law Institute, a fellow of the American Bar Foundation, and a member of the board of editors of the *American Journal of International Law*. He is a member of Phi Beta Kappa, Phi Delta Phi and the Order of the Coif. Reference has aptly been made to Judge Dillard as "one of America's leading legal scholars and a worthy successor in that role to the late Dean Roscoe Pound" (51 A.B.A.J 237 (1965)).

Aside from his impressive educational and professional background, which fits him so eminently for the high judicial post for which he has been chosen, Judge Dillard is endowed with a charming personality and a delightful sense of humor, both of which qualities he applies somewhat whimsically to his keen perspective of the science of the law. This characteristic has won him a host of admirers among international lawyers and lay diplomats alike.

Judge Dillard will bring to the International Court of Justice a humanistic insight into its juridical affairs which, coupled with his basic understanding of the philosophy of the law and the absolute integrity of his devotion to its principles, should do much to shore up the world's ebbing confidence in the efficacy of that tribunal.