HOUSE OF REPRESENTATIVES—*Thursday, January 29, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

If you believe in goodness, if you value the approval of God, fix your mind on the things which are holy and right and pure and beautiful and good.—Philippians 4: 8 (Phillips).

Our Father God, who hast taught us that only the pure in heart can see Thee, cleanse our hearts of all impurity, all impenitence, and all impatience. Give to us such a love for that which is good and true and beautiful that we may be made strong in temptation and give strength to those who are tempted as we are.

Let not our strength fail, our steps falter, or our spirits faint as we labor for the good of our beloved America.

This day, and every day, may we place our hands in Thine, look up to Thee, and face the hours with faith and fortitude knowing Thou art with us and we are with Thee as we endeavor to lead our people in the ways of justice and the nations in the paths of peace.

We pray in the spirit of Him whose life is the light of men. 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 a bill of the following title, in which the concurrence of the House is requested:

S. 3246. An act to protect the public health and safety by amending the narcotic, depressant, stimulant, and hallucinogenic drug laws, and for other purposes.

REQUEST FOR SUPREME COURT TO REVIEW ITS ORDER TO CHANGE THE FLORIDA SCHOOL SYSTEM

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

Mr. FREY. Mr. Speaker, today the longest telegram in the world, over 2,860 feet long, containing 350,000 words and more than 56,000 signatures, is being delivered to the U.S. Supreme Court. This telegram, started by State Senator Tom Slade, of Duval County, Fla., respectfully requests the Supreme Court to review its order requiring, in essence, the Florida school system to completely change its operation on February 1.

The issue in Florida is not one of segregation. Most of the Florida counties have achieved integration and have orderly plans to finish within the near future. Rather, the issue is arbitrary court orders requiring unrealistic changes that we are unable to carry out, orders made without regard to the needs of education and most importantly, without regard to the problems of students.

The telegram represents the views of the vast majority of people in Florida of all races, colors, and creeds. We will obey the law. We believe in the rule of law. We ask only that it be applied fairly to us and to all Americans.

REQUEST FOR PRESIDENT TO VETO FOREIGN AID APPROPRIATION BILL

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

Mr. GROSS. Mr. Speaker, this morning I sent the following telegram to the President of the United States:

The PRESIDENT,
The White House,
Washington, D.C.:

Good start made yesterday in the war on deficit spending and inflation. Consistency and financial crisis now calls for veto of $1.8 billion foreign aid appropriation bill. There are more than ample funds in pipeline. Veto of this bill would have overwhelming support of American people and would easily be sustained in House of Representatives. It will be most difficult for you to justify cuts in domestic spending, including new construction, and approve an increase over last year in the foreign handout program. Moreover in your state of the Union message last week you stated that: "We shall reduce our involvement and our presence in other nations' affairs."

H. R. GROSS.

APPOINTMENT OF CONFEREES ON S. 2523, COMMUNITY MENTAL HEALTH CENTERS AMENDMENTS OF 1969

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2523) to amend the Community Health Centers Act to extend and improve the program of assistance under that act for Community Health Centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, JARMAN, ROGERS of Florida, SATTERFIELD, SPRINGER, NELSEN, and CARTER.

APPOINTMENT OF CONFEREES ON H.R. 6543, PUBLIC HEALTH CIGARETTE SMOKING ACT OF 1969

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, JARMAN, ROGERS of Florida, SATTERFIELD, KYROS, PREYER of North Carolina, SPRINGER, NELSEN, CARTER, SKUBITZ, and HASTINGS.

APPOINTMENT OF CONFEREES ON S. 2809, PUBLIC HEALTH SERVICE GRANTS TO SCHOOLS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the 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, with a House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees, Messrs. STAGGERS, JARMAN, ROGERS of Florida, SATTERFIELD, SPRINGER, NELSEN, and CARTER.

APPOINTMENT OF CONFEREES ON H.R. 14733—MIGRANT HEALTH SERVICES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table 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, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, JARMAN, ROGERS of Florida, SATTERFIELD, SPRINGER, NELSEN, and CARTER.

PERSONAL ANNOUNCEMENT

Mr. NICHOLS. Mr. Speaker, I was necessarily absent from the Chamber on Tuesday of this week when the foreign aid conference report was brought up. Had I been present, I would have voted "nay."

CALL OF THE HOUSE

Mr. GOODLING. 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. 8]

Adams	Evans, Colo.	Minshall
Anderson, Ill.	Evins, Tenn.	Mize
Anderson, Tenn.	Findley	Monagan
	Frelinghuysen	Moorhead
Annunzio	Fulton, Tenn.	Morton
Baring	Gallagher	Moss
Berry	Gray	Obey
Blackburn	Haley	O'Hara
Blanton	Hansen, Idaho	Ottinger
Bow	Hansen, Wash.	Podell
Brademas	Hathaway	Pollock
Brown, Calif.	Hawkins	Powell
Broyhill, N.C.	Hays	Pucinski
Burke, Fla.	Hébert	Rarick
Bush	Heckler, Mass.	Reid, N.Y.
Celler	Howard	Rivers
Clark	Jacobs	Rooney, N.Y.
Clausen, Don H.	Karth	Rostenkowski
	Kirwan	Scheuer
Clay	Kluczynski	Sebelius
Conte	Kuykendall	Shriver
Conyers	Leggett	Skubitz
Corman	Lipscomb	Smith, N.Y.
Coughlin	Lloyd	Stokes
Cramer	Long, La.	Stratton
Cunningham	Lujan	Taft
Davis, Ga.	Lukens	Teague, Calif.
Dawson	McCloskey	Tiernan
Dennis	McMillan	Tunney
Dent	Marsh	Van Deerlin
Diggs	Martin	Watson
Eckhardt	Mayne	Winn
Esch	Mills	Wolff

The SPEAKER. On this rollcall 335 Members have answered to their names, a quorum.

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

THE LATE HONORABLE W. C. "BILL" LANTAFF

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

Mr. FASCELL. Mr. Speaker, I regret to have to make the announcement that a former colleague of ours, with whom many of us have worked, who was my immediate predecessor in the Congress, today passed away, the Honorable W. C. "Bill" Lantaff.

I just wanted to notify those friends who are here that we in the Florida delegation on Monday will seek some time to make appropriate remarks.

TO WELCOME TO THE UNITED STATES OLYMPIC DELEGATIONS AUTHORIZED BY THE INTERNATIONAL OLYMPIC COMMITTEE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 131) to welcome to the United States Olympic delegations authorized by the International Olympic Committee.

The Clerk read the title of the Senate joint resolution.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, as I understand it, this is a joint resolution which was approved by the other body last November.

Mr. FASCELL. The gentleman is correct.

Mr. GROSS. To extend an invitation to the Internatonal Olympics Committee to invite the winter olympics to Colorado—Denver, to be specfic—and the summer olympics to Los Angeles in California.

In the Foreign Affairs Committee this morning I opposed the passing out of this legislation, not because I am opposed to the extension of an invitation to bring the olympics to this country but because of the precipitate manner in which this legislation is being brought to the floor of the House.

I am not unaware of the legislation which was enacted about 1959 with respect to Squaw Valley and the winter olympics in California that followed. At the time that invitation was extended, as I remember the record, we were told that bringing the winter olympics to California would not cost the U.S. Treasury any money. I will say to the Members of the House that we wound up with a cost of several million dollars.

I am not going to oppose this joint resolution, but I wish to say that this is probably opening the door to another multimillion-dollar expenditure. I regret that there was not more time. I do not find a copy of the joint resolution or report at the desk on the floor. I am sorry there was not more consideration given to the implications of this, particularly as to who is going to determine what nations will be allowed to participate in the summer and winter olympics. In 1959 we had a situation wherein the international committee tried to outlaw participation by the Republic of China, in other words, by Nationalist China. This resolution apparently vests completely the right as to who may or may not participate in the international committee, as I recall from a hasty reading of it late yesterday. I greatly regret that this joint resolution is being called up after having laid dormant since last November and is being passed under these circumstances today.

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 Senate joint resolution, as follows:

S.J. RES. 131

Whereas, the city of Los Angeles has been duly authorized to seek the Summer Olympic Games of 1976; and

Whereas, the city of Denver has been duly authorized to seek the Winter Olympic Games of 1976; and

Whereas, these games will afford an opportunity of bringing together young men and women representing more than seventy nations, of many races, creeds, and stations in life and possessing various habits and customs, all bound by the universal appeal of friendly athletic competition, governed by rules of sportsmanship and dedicated to the principle that the important thing is for each and every participant to do his very best to win in a manner that will reflect credit upon himself or herself, and the country represented; and

Whereas, the people of the world in these trying times require above all else occasions for friendship and understanding, and among the most telling things which influence people of other countries are the acts of individuals and not those of governments; and

Whereas, experiences afforded by the Olympic games make a unique contribution to common understanding and mutual respect among all peoples; and

Whereas, previous Olympic games have proved that competitors and spectators alike have been imbued with ideals of friendship, chivalry, and comradeship and impressed with the fact that accomplishment is reward in itself; and

Whereas, this nation wishes to express its desire that all men and women on Olympic delegations from every country throughout the world are welcome to the United States of America for these Olympic games; and

Whereas, this nation wishes to make the arrivals and departures of all concerned as convenient and expeditious as possible:

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the President of the United States is authorized and requested to issue a proclamation welcoming all Olympic delegations from throughout the world authorized by the International Olympic Committee and asking them to come and actively participate in the 1976 Olympic games, if they are to be held in the cities of Los Angeles and Denver, and to pledge to all nations and authorized Olympic delegations that the United States will provide appropriate entry procedures assuring convenient arrivals and departures.

The 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.

IS THE NATIONAL EDUCATION ASSOCIATION ENTITLED TO TAX EXEMPTION?

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

Mr. GUBSER. Mr. Speaker, this morning at 7 o'clock I heard a very startling radio newscast and accordingly called the network news desk of WRC to ask for a quotation from that newscast. It pertained to the attempted veto override of yesterday. I quote what WRC had to say.

George Fisher of Des Moines, Iowa, President of the NEA, said "We want to beat five or ten Congressmen who switched their votes and upheld the veto." Fisher said the NEA would put the fear of God in politicians all over the country.

Mr. Speaker, I am the proud holder of a valid general secondary teaching credential in the State of California. I am proud of my profession, and I am sorry that Mr. Fisher of the National Education Association, as a professional man, has stooped to the indignity of blackjack politics.

Eighteen years ago, when I came to this body, we enjoyed the luxury of being able to consider what we honestly felt was good for the country. Today I am sorry to say that public policy is made as a result of a coalition of pressures. I do not think this is good for the country.

We have one weapon to fight back with, and that is tax exemption. A few years ago the Sierra Club in my State made its views known regarding certain measures before this Congress, and the Internal Revenue Service withdrew

the organization's tax exemption. I respectfully suggest now that the Internal Revenue Service should do its duty in this instance and investigate what Mr. Fisher had to say, the operations of the National Education Association, and determine whether they are entitled to continued tax exemption.

NATIONAL BLOOD DONOR MONTH

(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, this is National Blood Donor Month. Tomorrow those of us who are physically able are invited to give blood to the American Red Cross at the first aid room of the Rayburn Building starting at 9:30 a.m.

I am asking those of you who are able to participate. A gift of blood may save a life.

PERSONAL ANNOUNCEMENT

Mr. DULSKI. Mr. Speaker, on rollcall vote No. 5 on Tuesday, concerning passage of the bill H.R. 860, authorizing employer contributions for joint industry promotion of products, I was away from the Capitol on official committee business. Had I been present and voting, I would have voted "yea."

DEFENSE FACILITIES AND INDUSTRIAL SECURITY ACT OF 1970

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 792 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 792

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14864) 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. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Internal Security, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. COLMER. Mr. Speaker, I yield the usual 30 minutes to the minority, the very able and distinguished gentleman from Tennessee (Mr. QUILLEN), and pending that I yield myself such time as I may consume.

Mr. Speaker, as the reading of the resolution indicates, this is an open rule with 2 hours of general debate on the bill H.R. 14864 with reference to an amendment to the Internal Security Act of 1950 to authorize the Federal Government to institute measures for the protection of defense production and classified information released to industry against acts of subversion, and for other purposes.

Mr. Speaker, this bill is reported from the Committee on Internal Security by the able gentleman from Missouri (Mr. ICHORD).

Mr. Speaker, in that connection I should like to pay my personal respects to that committee and particularly to the very able gentleman from Missouri (Mr. ICHORD) who is in my judgment doing an excellent job in the conduct of this committee.

This committee has in the past, of course, had a rather controversial existence and I understand there is still some controversy about even this bill, which of course I favor.

In brief, the bill would provide necessary legislation for the maintenance of three basic national security programs relating, first, to the protection of industrial facilities and production essential to the defense of the United States; second, to the protection of classified information released to contractors; and third, to the safeguarding of vessels and waterfront facilities.

The bill would authorize the President to institute a personnel security screening program to determine eligibility of individuals for access to, or control of, sensitive positions, places, or areas of employment in designated defense facilities, as defined, for the safeguarding of such facilities against sabotage, espionage, or acts of subversion.

It gives express congressional sanction for the institution of measures and regulations to safeguard classified information released to contractors against unauthorized disclosure.

It amends the Magnuson Act to give express congressional authority for the institution of a personnel security screening program for the safeguarding of vessels, harbors, ports, and waterfront facilities.

The legislation establishes procedures for the administration of the foregoing programs by authorizing specific investigation, hearing, and review procedures, together with authority for the issuance of compulsory process for attendance of witnesses and production of evidence, the granting of immunity for compelled testimony, penal sanctions for violation of area restraints, the regulation of jurisdiction of courts, and authority for reimbursement to persons under certain circumstances for loss of earnings.

It authorizes the President to develop a voluntary program in cooperation with business and labor to protect facilities of importance to defense mobilization against destructive acts and omissions, including the development of standards of security for such facilities; cooperative action in consultation with industry, labor organizations, State agencies, trade and professional security associations; the institution of training and educational programs; the furnishing of advice and assistance to the management of such facilities; and the dissemination of appropriate intelligence information to representatives of management and labor.

Mr. Speaker, the minds of the people of this country have been so occupied with controversial domestic issues in recent years that there seems to be a disposition on the part of our people to lose the sense of awareness which prevailed heretofore of the danger of communism. I am not sure that it is not possible that the Communists themselves are responsible for this fact. The people of this country should not permit this situation to exist. There is no question but that the present Communist leaders still adhere to the hardline of Lenin and Stalin. In fact, if I read correctly about what is going on in that country, it is evident that the hardliners are back in power and their goal still continues to be the destruction of governments of free men and a world dominated by the Communists.

Certainly, Mr. Speaker, the price of freedom is still eternal vigilance.

Mr. Speaker, I know of no controversy about the rule, and therefore I shall not go into any discussion on either the rule or the bill, and I reserve the balance of my time and urge the adoption of the resolution and the overwhelming passage of the bill.

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

(Mr. QUILLEN asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may consume and ask unanimous consent to revise and extend my remarks and include extraneous matter.

Mr. Speaker, H.R. 792 makes in order for consideration H.R. 14864 under an open rule with 2 hours of general debate. The distinguished gentleman from Mississippi (Mr. COLMER) has ably pointed out the provisions of this measure.

For many months now I have visualized and worked hard to gain this opportunity—that is, Mr. Speaker, to speak in behalf of a bill which I feel, if enacted into law, will be a giant step toward thwarting efforts of Communist elements in this country to overthrow our Government.

As many of you know, I have long been a supporter of legislation designed to protect our Nation's defense facilities from infiltration by subversive forces. I have attempted to secure passage of this measure through many channels.

Thus, it is indeed a pleasure for me to speak on behalf of H.R. 14864, the Defense Facilities and Industrial Security Act of 1970.

I feel entirely confident that the Committee on Internal Security, of which my good friend and colleague the Honorable RICHARD ICHORD is chairman, has reported for passage a bill which will stand on four legs legally and at the same time provide the steps necessary for closing the doors of our defense facilities to those who would advocate and attempt to overthrow our Government or undermine our national security. I am a cosponsor of this bill with the gentleman from Missouri (Mr. ICHORD) and others.

I have perhaps, Mr. Speaker, a par-

ticular interest in the security of our defense facilities, since a "spy story" of international interests and repercussions came out of a defense plant in my own hometown of Kingsport, Tenn.

According to the known facts as revealed in 1950, please let me give you a thumbnail history of this bizzare spy case. I will submit for the RECORD an article from the U.S. News & World Report for November 24, 1950, and news stories from the Kingsport Times-News to follow my remarks.

During World War II, Alfred Dean Slack, an employee of Eastman Kodak Co. laboratories, was transferred to Holston Ordnance Works, an Eastman subsidiary, in Kingsport. A new, superpowerful explosive was to be developed there; Slack became a department supervisor with access to information about the development of this explosive.

While with Eastman in Rochester, Slack had met and become friends with a Russian agent and had turned over much information concerning chemical development to the agent in the interest of "helping the People's Republic" and picking up some extra money. Not a member of the Communist Party itself, Slack justified his treachery by telling himself that Russia was at peace with the United States and that the information he was selling at $200 a report was of an industrial nature and was not involved with weapons.

When he was transferred to Kingsport, however, the situation changed. The information he had access to had become, according to published reports, of more importance—he was a principal in the development of a new explosive said to be second in power only to the atom bomb.

Slack's original contact had been replaced by a man named Harry Gold, who would not rest until he had that information. One day, Slack brought a sample of the explosive out of the plant and gave it, along with a sketch of the manufacturing technique, to Gold. The "secret" was soon on its way to Russia.

That was in 1943. Slack was arrested in 1950 and sentenced to 15 years in prison. Gold was sentenced to 30 years, but was released in 1966.

I will not attempt to give you every detail of the bill because I know this task will be ably handled by the gentleman from Missouri (Mr. ICHORD).

H.R. 14864 would vitalize, strengthen and improve three basic and necessary national security programs for the purpose of safeguarding, first, selected industrial facilities essential to the defense of the Nation against espionage, sabotage and acts of subversion; second, classified information released to contractors; and, third, vessels and waterfront facilities.

In some form, programs to accomplish each of these objectives have been administered by the executive. Over the years, these programs have undoubtedly made a substantial contribution to our Nation's security in this troubled world. However, the principal statutory basis for the first and third programs were recently struck down by the Supreme Court, and important deficiencies have appeared in the administration of the second program which only the Congress can remedy. The bill will provide an explicit legislative base for the restoration and maintenance of the foregoing programs.

The principal legislative base for the maintenance of our industrial defense facilities program was section 5 of the Subversive Activities Control Act of 1950. Under that section of the act, members of Communist-action organizations were prohibited from employment in certain facilities designated by the Secretary of Defense as "defense facilities." However, on December 11, 1967, the Supreme Court of the United States voided that section of the act in the case of *U.S.* v. *Robel* (389 U.S. 258) on the ground of "overbreadth." The program was thus struck down.

The bill would replace the former program by authorizing the institution of a personnel screening program for determining access to sensitive positions or areas of employment within selected facilities which the Secretary of Defense may designate pursuant to the standards set forth in the bill. Indeed, we believe that this program will operate more effectively than that formerly maintained under section 5, and will provide that degree of flexibility for performing, with due regard for the rights of individuals, that difficult and subtle task of excluding those persons from access to defense facilities who would use their positions to disrupt the Nation's defense production.

The program relating to the security of vessels and waterfront facilities was maintained under the Magnuson Act of 1950, which had its beginning in the Korean war. Under this act, the President was authorized to issue rules and regulations to safeguard vessels and waterfront facilities of the United States when he determined that the security of the United States was endangered by subversive activities. Pursuant to this authority, the President on October 20, 1950, issued Executive Order 10173 by which he initiated a program addressed to the physical security of such facilities and authorized a personnel screening program with respect to personnel.

This program, initiated by President Truman, was maintained in the administration of four successive Presidents until January 16, 1968. On that date, the Supreme Court struck down the personnel security screening program. It did so in the case of *Schneider* v. *Commandant, U.S. Coast Guard* (390 U.S. 17), on the ground that this program was not expressly or impliedly authorized by the Congress. The bill would remedy this result by an amendment to the Magnuson Act which would expressly authorize the President to maintain and restore the program.

On the other hand, the industrial security program for the protection of classified information against unauthorized disclosure has had no express legislative base. The current program has been maintained pursuant to Executive Order 10865, issued in 1960 by President Eisenhower, following a 1959 decision of the Supreme Court in the case of *Greene* v. *McElroy* (360 U.S. 474), which struck down certain procedures applied by the Secretary of Defense allegedly without Presidential or congressional authorization.

However, present procedures suffer from several pressing deficiencies which are clearly beyond the authority of the President, acting alone, to remedy. The need for congressional support in this field has become increasingly apparent.

While expansive hearing procedures and other benefits are accorded to individuals in proceedings for determination of access to classified information under the Executive order, the benefits granted by its generous and detailed provisions cannot be fully realized due to the absence of congressional authority for supporting process and procedures. The weaknesses and deficiencies under the present order are fully set forth in the report.

Although I do not deem it appropriate at this point to enlarge upon them, I would like to point out that the order particularly suffers from the absence of authority for the issuance of process to compel the attendance of witnesses and the production of evidence. The absence of such authority, together with the ancillary power to grant immunity to witnesses for testimony compelled over claims of self-incrimination, is not only a disadvantage to the Government, but also to the applicant who has no assurance of means to procure evidence on his own behalf. This and other deficiencies are remedied by the bill.

Mr. Speaker, I want to make clear that the bill is carefully drafted to establish a much-needed legislative base for the maintenance of each of the three programs I have mentioned. It does so in strict conformity with the expressions of the courts and with a most meticulous regard for individual liberties in relation to the national security interests.

While one may with reason disagree with the decisions of the courts which make this legislation imperative, the fact remains that the courts in no instance have ever denied the existence of congressional power to accomplish the basic objectives to be served by these programs. Indeed, they could hardly do so in the face of powers expressly conferred on Congress by the fundamental charter of our Government, to provide for the common defense. This is a judgment and a responsibility confided by the Constitution to the Congress. The courts, in effect, have shifted the burden to the Congress to come up with appropriate legislation. The enactment of the bill, H.R. 14864, will give us an opportunity to sustain this burden.

The material referred to follows:

[From U.S. News & World Report, Nov. 24, 1950]

INSIDE STORY OF A NATIVE AMERICAN WHO TURNED SPY

(NOTE.—Can an American of average circumstances, happy with job and family, be turned by blackmail into a spy for the Communists, willing to give or sell his country's secrets to Russia?

(Could this really happen to a normal, hard-working man, an active church worker, a home-loving man with a charming wife and family?

(The answer is yes. And it is based on the facts in this article, which have just been gathered from official sources.)

Alfred Dean Slack seemed as nearly normal and average as an American could be. Now he is serving a term in prison for giving war secrets to Russia. And his friends and neighbors at Clay, N.Y., just outside Syracuse, are trying to figure out how it happened.

Until one day last June, Slack fitted snugly into the community at Clay. He merged easily with the crowd. He was 44, of medium height, a little too heavy, like many others of his age. He wore rimless glasses, looked a little like a preoccupied college professor.

Slack had a good job. He had a new Cape Cod bungalow that he had built with his own hands. He was proud of it, and proud of his wife and two young children. His spare time went into work on the house. In idle moments, he liked to play the organ in his living room, or work at wood carving, or thumb through the chemical and scientific books in his little library. He was at home and loved it. He had been born within a dozen miles of the place where he lived.

Neighbors tabbed him as "a nice guy." One said: "He's a quiet fellow, but I like him." The justice of the peace called him "a home man." His grocer thought him "one of the nicest fellows I ever met."

This was the picture the community had of Slack when he climbed into his car on the morning of June 15, 1950, and drove off to his work as assistant production superintendent of a paint factory. A day later, the people at Clay knew Slack as a man who had given American war secrets to Russia. Two men from the Federal Bureau of Investigation had arrested Slack that morning when he reported for work.

Soon, the details came to the people in the home community. Six years before, while working at a war plant in Tennessee, Slack had told a Russian agent how to make a new explosive. He even had given the Russian agent a sample. And he had known the information was destined for Russia.

The neighbors at Clay puzzled over the story as they set about raising funds for Mrs. Slack and the children. The thing was hard for them to understand. Slack was not a parlor sophisticate or a college-bred Communist. He had not turned to Communism because of joblessness. He was not even a member of the Communist party.

All through his working life, Slack had worked at pretty good pay. He had no criminal record. He had been a quiet, well-behaved youth. There was nothing sinister in his background. He was just a quiet man who liked to potter about the house and play the organ.

On the surface of Slack's placid life, there seemed to be no clue as to how it could have happened. He had grown up in a self-respecting, middle-class family in Syracuse. He had a natural liking for chemistry. His father was a chemist. Slack had one brother and two sisters.

Young Slack had gone through school at the normal rate. He had finished North High School in Syracuse when not quite 18. Then had followed various jobs and two semesters at Syracuse University. Soon after he turned 21, Slack went to Rochester, got a job in the Eastman Kodak Co. laboratories, and enrolled in night school. For two years he carried the double load of working by day and going to school at night.

Just before entering night school, Slack married. His work at the Eastman laboratories settled into permanency. He continued to dig into chemical and mechanical subjects in spare time at home after he finished school.

The great depression did not disturb Slack. All through this period, he had a regular job with the Eastman Co., growing in knowledge and responsibilities.

When the war came, Slack was one of the young men transferred to the Holston Ordnance Works of an Eastman subsidiary at Kingsport, Tenn. A new, superpowerful explosive was to be developed here. Slack became a department supervisor, with access to information about the development of the explosive. He worked here, and at another Eastman subsidiary at Oak Ridge all through the war years.

With the war over, Slack left Oak Ridge and war work. He tried engineering research, worked on various projects. Finally, he went back to Syracuse, took the job with the paint company, and settled back into his native environment.

His work history gave no clue to why Slack had turned spy. There had been good jobs—as chemist, engineer, plant manager—at fair pay. He had seemed to be happy. His first marriage had ended in a divorce in 1939, but this seemed to have left no scars. He had remarried. This happened to many men.

It is only in a study of Slack's friends that the pattern of intrigue begins to become apparent.

As an eager young student, working in the Eastman laboratories, Slack had met an older man named Richard Briggs. This new friend was a skeptic about the American economic system. This was in 1928. Briggs thought they were doing things better in Russia, the people's state.

Slack listened eagerly to Briggs. He felt much the same way. His own friendly feelings toward Russia, which were to grow through the depression years, already were beginning to flower.

In 1936, eight years after their meeting, Briggs left the Eastman plant and went to St. Louis. But he kept up his contact with Slack and soon was back in the East. And it was not long before he was calling on Slack again.

Slack was well on the upgrade now. He not only knew the Eastman processes, but by his outside studies of mechanics and general engineering he had picked up a good knowledge of many industrial techniques.

Briggs began to mine this vein of information. He asked Slack all sorts of questions: What is the way to do this? What is the formula for that? What are the processes for making this? He hinted that he needed the information for use in his own job. But some of the things Briggs said were vague. They set Slack to asking questions.

Briggs admitted that he was collecting the information for Russia. He was eloquent: Russia was the people's republic. It was behind the United States in industrial development. It would be a service to humanity to help Russia bridge this gap. Slack listened.

Soon, Briggs was suggesting that Slack might pick up some extra money for spare-time work. Slack could work out explanations and outlines of how things were done in the chemical field, with formulas and such things and sell them to Russia. Briggs would put him in touch with the right man.

Slack was interested. Here was a chance to do something to help the people's republic. And he could pick up some spare money for doing it. At first he gave information to Briggs. Then Briggs brought a man named "George," who became a regular contact. "George" explained what he wanted and Slack worked out the information. He got approximately $200 for each report. Briggs died, but Slack went ahead with the work.

It all seemed simple. Russia was at peace with the United States. And this was industrial information, having nothing to do with weapons.

In 1940, about a year after the death of Briggs, Harry Gold took the place of the first Russian agent as a contact with Slack. The work continued.

Then America went to war and Slack tried to break off relations with Gold.

Slack had been picked for an important new job at Kingsport. He was married again, and happy. And he realized that there was a vast difference between giving industrial information in peace and providing military information in war.

There were constant reminders of this at Kingsport: restrictions on plant workers; security regulations; posters warning against giving information to an enemy. Russia was not an enemy, but Slack decided not to give Gold any more information.

Gold made several trips to Kingsport, demanding to know about the new explosive. Slack could tell him about it easily. But he refused, flatly.

Finally, Gold cracked down and began to threaten. He would tell about the other things Slack had done. No one would believe this work was as innocent as it sounded. Slack would be fired from the war plant, barred from work in any other, blacklisted everywhere.

Then Gold became persuasive again: Russia was an ally of the United States. It was up to Americans to help. He spoke of Stalingrad, and the stand before Moscow and a devastated Ukraine.

Slack bent under the pressure. He brought a sample of the explosive out of the plant and gave it, with a sketch of the manufacturing technique, to Gold. The latter hurried it off toward the upper levels of the Russian pyramid.

That was in 1943. The crime lay on Slack's conscience for six years, through half a dozen different jobs, before it caught up with him in his home environment at Syracuse.

Because of the threats Gold had used, the Justice Department proposed a 10-year sentence for Slack. But Federal Judge Robert L. Taylor waved aside the recommendation. He said 15 years was not too much for conspiring to commit espionage for a foreign Government.

And Alfred Dean Slack, a rumpled man with a worried face, wiped his rimless glasses, put them on again, and went off to prison.

[From the Kingsport (Tenn.) Times-News, May 18, 1966]

FREED: HARRY GOLD, SPY WHO CAME TO KINGSPORT

Harry Gold, the middleman in a real-life spy drama which involved Kingsport and the secret of RDX explosives in the late 1940s, became a free man Wednesday.

Gold, 55, who was convicted as a courier for the spy ring which also gave Russia the secret of the atom bomb, was paroled from the federal penitentiary at Lewisburg, Pa., after serving 16 years of a 30-year term.

Gold made several trips to Kingsport in the late 1940s to pressure Holston Ordnance Works employe Alfred Dean Slack, who had cooperated with Russian agents earlier, into providing the formula for RDX . The explosive, manufactured at the plant here, was said to be second in power only to the atom bomb.

It was disclosed during his trial, that Slack first refused to cooperate with Gold, but did cooperate after Gold made a trip to Kingsport to threaten Slack with disclosure for information he turned over in past years.

Slack served a 10-year term in federal prisons and has not been heard of since 1960.

Gold was sentenced on Dec. 9, 1950 on a conviction of conspiring to transmit national defense information to a foreign government from Dec. 1943 to Nov. 1947.

The Kingsport case wasn't Gold's only activity.

A central figure in the atom bomb spy trial of the 1950's, Gold gave testimony that led to the conviction and execution of Ethel and Julius Rosenberg, leaders of the far-flung ring. The Rosenbergs were executed June 19, 1953.

Gold was the first member of the spy ring arrested.

He was implicated by British scientists Dr. Emil Julius Klaus Fuchs, who worked on the atom bomb project in the United States, as the man to whom he passed atom secrets.

Gold worked as a biochemist at Philadelphia General Hospital during the period he worked with the ring, from December, 1943 to November, 1947.

Gold walked out of the prison with his court-appointed attorney, Augustus B. Ballard, who had represented him since his conviction. It was raining but the slender parolee said, "It's a bright day in my life."

He must remain under supervision of the Federal Board of Parole until July, 1980. Gold plans to live in Philadelphia with his brother, Joseph, 49, and seek financing for production and distribution of a diabetes test kit he patented while in prison. Ballard said several weeks ago that several job opportunities are waiting for Gold in research organization as a biochemist.

[From the Kingsport (Tenn.) Times-News, June 16, 1950]

KINGSPORT IN CENTER OF SECOND SPY STORY

(By Jack Marshall)

Kingsport again became the center of nationwide interest Thursday with the arrest by the Federal Bureau of Investigation of Alfred Dean Slack, former resident here accused of supplying Communist Agent Harry Gold with Holston Ordnance Works war secrets.

Slack, arrested Thursday in Syracuse, N.Y., was employed at Holston Ordnance Works in the Nitric Acid Department in 1943 and 1944, according to H. G. Stone, vice-president and works manager of Tennessee Eastman.

FIRST REPORTED

Alleged spying activities in Kingsport were first brought to public attention with the arrest during World War II of Dr. Raymond Boyer, assistant professor of chemistry at McGill University.

The Canadian Royal Commission said Boyer admitted giving RDX secrets to Russia on his work, both here and in Canada.

Dr. Boyer assisted in the development of the RDX process used at Holston Ordnance Works and visited the plant during the war years, HOW officials said at the time.

ROSE ARRESTED

At the same time, Canadian Parliament Member Fred Rose was arrested and charged with transmitting confidential information concerning the details of RDX manufacture to the Russians.

Capt. J. V. Lester, present security officer at HOW, said Thursday that Slack was not listed as a government employe at HOW.

"He apparently worked with one of the contractors on the job at the time," Capt. Lester said.

Eastman Director of Public Relations Tom Divine said: "HOW had in its employ in the Acid Department during the war a man called Alf D. Slack. Without further checking, we can't be sure if he was the same man referred to by the F.B.I."

Ed Guenther, wartime supervisor of the HOW explosive plant said he recalled Slack as a "slight, blond fellow."

Guenther said the Slack employed at the munitions plant was in what he termed a "subtechnical position."

Now a division superintendent, Guenther said he didn't think Slack could have obtained any secret information of real value by virtue of his (Slack's) particular job.

Tennessee Eastman operated the Holston Ordnance Works munitions plant during World War II for the production of the explosive RDX and its incorporation into Composition "B." The latter is considered the most powerful known explosive outside the Atomic bomb.

Although used for bombs, RDX, in the form of Composition "B," was the main factor contributing to the winning of the Battle of the Atlantic against Axis submarines.

Development of HOW by Tennessee Eastman Corporation began on November 4, 1941, when TEC was asked to work on one phase of an RDX process by the Chief of Ordnance Office. Seventy-nine days later, Eastman accepted a National Defense Research Committee assignment to build a pilot plant for the production of the powerful weapon.

Using the RDX process developed by Michigan University scientist Dr. W. E. Bachman, Eastman made the first pilot plant run on February 17, 1942.

Operation of the munitions plant got under way on April 29, 1943, some five months before Slack apparently went to work there.

The first carload of the revolutionary explosive was shipped less than a month after operations started. A short time later, the plant became the largest manufacturer of high explosives.

In 1947, Holston Ordnance Works was named as one of 43 war plants which the War Department intends to keep on a standby status for quick use in event of a national emergency.

[From the Kingsport (Tenn.) Times-News, June 16, 1950]

GOLD VISITED IN CITY IN 1943–44—NEIGHBORS RECALL ALFRED SLACK, WIFE

(By Virginia Davis)

Alfred Dean Slack, 44, accused spy arrested Thursday in Syracuse, N.Y., by the Federal Bureau of Investigation, is known to have contacted Harry Gold, confessed carrier of Communist information, in Kingsport during 1943 and 1944.

Reliable authorities said last night that Gold visited Kingsport during the two-year period Slack worked in Kingsport defense work.

Alf D. Slack was listed in the 1943 city directory as a supervisor at Holston Ordinance Works residing at 1100 Midland Drive, Winston Terrace. His wife was listed as Gennevive Slack.

NEIGHBORS RECALL

Neighbors of the Slacks recalled they were "not too friendly" and that Slack "stayed in the house a lot when he was at home". Woodworking was remembered to have been Slack's hobby.

HOUSE OCCUPIED

The house Slack and his wife occupied in Kingsport is now occupied by the William Thaxter King family, who moved there shortly after Slack "moved suddenly in 1944", supposedly for Oak Ridge.

Al W. Kelly, 1101 Midland Drive, said Slack had hooked up some mechanical equipment he thought was woodworking machinery in a third bedroom of the small five-room residence. He said his family now and then heard "machines" or "saws" in operation but none of the Kellys ever saw anything Slack might have made with the equipment.

The Slacks seldom had visitors, although Mrs. Slack was remembered as active in the Girl Scout organization in Kingsport.

A small boy from Brooklyn visited them one summer and came over across the street to the Kelly residence to play, but the two Slacks were "not the social type". Mrs. Kelly said they were not included in collective neighborhood gab and social fests.

Slack, the Kellys said, worked mostly at night at what they assumed was shift work at HOW and also worked in the day time. The Slacks lived alone in a rented defense home for war workers.

At the time the Slacks were in Kingsport, the city was flooded with newcomers, war workers, and nobody made much effort to be neighborly or unduly friendly, the Kellys said.

When the Slacks moved, the Kellys remembered "it was in a hurry. They were here today and gone the next", the Kellys described their moving.

Another Slack family residing in Kingsport in 1943 was listed as Thomas D. and Helen Slack, 618 Watauga St. Slack was termed a chemist at Holston Ordinance Works by the 1943 city directory.

Mrs. J. M. Cross, of that address, said she remembered renting an apartment to a couple of middle-aged people with that name.

A former HOW employe, Mrs. Frank Gross of 209 Douglas St., Bristol, said Al Slack's father worked in the chemistry department at HOW and that he was transferred to Canada by the government after a short time here.

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

Mr. QUILLEN. I yield to the distinguished chairman of the committee, the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. I compliment the distinguished gentleman from Tennessee, a coauthor of this legislation, for the statement that he has just made.

I believe, Mr. Speaker, it would not facilitate the debate for me to go into the merits of the legislation at this point in the discussion of the rule. However, I wish to state that the committee reported this bill out with only one dissenting vote. I have circulated to the Members a response to the statement in the dissenting opinion which I think amply answers the conclusions that are made in that dissenting opinion. I would ask unanimous consent at this time, in order to establish a legislative history of this measure, that my response be inserted in the RECORD.

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

There was no objection.

The response is as follows:

REPORT ON H.R. 14864: A RESPONSE BY CONGRESSMAN ICHORD TO THE DISSENTING VIEW OF CONGRESSMAN STOKES

The exordium of the dissent (page 57 to top of page 58) consists of vague, conclusory allegations in derogation of the bill without specification of matters of substance. In this portion of his dissent, Mr. Stokes appears to rely principally on invective rather than on reasoned argumentation.

Quoting an extract from Robel, in which the court in fact made clear that Congress can exclude subversives from sensitive positions in defense facilities, Mr. Stokes nevertheless charges that the framers of the bill have attempted to "rehabilitate" in a "barely disguised" fashion principles which the court found "patently offensive". He describes the bill as broad and vague, a step "backward in progress"; that its provisions are capable of "nearly infinite expansion"; that they contain the "dangerous" potential for an "unprecedented assault" on fundamental rights. Likewise quoting only an extract from the preamble of Executive Order 10865, he charged that the objective therein expressed, to protect the interests of individuals against unreasonable or unwarranted encroachment, has been "abandoned" in the bill, but obscures the fact that the bill embraces the provisions of the Executive Order which the President, in subsequent language of the preamble, expressly found "recognize the interests of individuals affected thereby and provide maximum possible safeguards to protect such interests." (See E. O. 10865, p. 51 of Report.)

While appearing to pay deference to the thought that no one would "seriously" advocate "that the doors to the Nation's pro-

ductive facilities should be thrown open to those bent on destroying them," nevertheless Mr. Stokes seems to object to a principal means of accomplishing this, namely, by barring subversives from access to sensitive positions in defense facilities. This is evident when he says, "In addition to revitalizing the direct bars against employment in defense industries to individuals espousing unpopular political beliefs, this bill puts on a legislative footing the right of the executive to impose indirect employment disabilities previously authorized by E. O. 10865 (1960) by restricting access to classified information released to defense industry." The employment of the broad and loose euphemism—"individuals espousing unpopular political beliefs"—should not be permitted to obscure the issue. This expression, embracing subversives, who are properly the subject of legislation, as well as others who are not, has often served that purpose or has had that effect.

Such generalities cannot be specifically answered. They often deserve, in response, equally conclusory answers. Mr. Stokes' view of the constitutionality of the bill is not shared by many competent lawyers. For example, in the hearings on the bill, Mr. Stokes sought to press his point, and he asked whether Mr. Yeagley had "examined this bill thoroughly with respect to its constitutionality, that is, keeping in mind first amendment rights, constitutional right to be confronted by one's accuser, and that sort of thing?" Mr. Yeagley replied as follows:

"Mr. YEAGLEY. Yes, we think we have. We have spent a lot of time on it. We have had lawyers working on this bill, incidentally, who are also lawyers who argue the cases in court and prepare the briefs.

"Mr. STOKES. Have they expressed to you any qualifications with reference to the constitutionality of any of the sections of the bill?

"Mr. YEAGLEY. No, only insofar as we have made suggestions and recommendations. We have no way of knowing in any case whether we are going to win a constitutional test. The same would be true of this program with or without congressional authorization.

"We think that it would be held constitutional." (See page 1229, Hearings relating to H.R. 12699.)

I would also note that I had submitted the original bill, H.R. 12699, to the Legislative Reference Service of the Library of Congress for an opinion on its constitutionality. An opinion was likewise rendered to the effect that, "Appraised in the aggregate this measure would appear to be immune from challenge as being unconstitutional on its face."

IMPOSITION OF EMPLOYMENT DISABILITIES IN CERTAIN AREAS

In this subheading of his dissent, commencing at page 58, Mr. Stokes seeks to attack the bill on a more plausible and somewhat more specific basis. He argues, first, that there is an unconstitutional delegation of power to the President because of the failure "to provide any meaningful standard by which the President can make determinations with which he is charged." This view, of course, was not shared by the Department of Justice or the Legislative Reference Service of the Library of Congress.

It must be conceded, however, that in any instance of congressional delegation of power to the executive, the question whether the delegation is a proper one is always an inherent issue and one which, in many instances, can be argued pro and con. While this issue has frequently been raised, there have been few instances in which statutes have been struck down on this basis. As a matter of fact, since the founding of our Constitution to the year 1963, of the thousands of statutes enacted by the Congress of the United States, only 74 have been held unconstitutional on any basis. (See "Constitution of the United States of America," U.S. Government Printing Office, 1963, page 1387.) The remarkable fact is, that of this very limited number only 5 have been held unconstitutional on the basis of improper delegation. (Act of Oct. 6, 1917, by 253 U.S. 149; Act of June 10, 1922, by 264 U.S. 219; Title I, except section 9, Act of June 16, 1933, by 295 U.S. 495, and section 9(c) of that Act, by 293 U.S. 388; and the Act of Aug. 30, 1935, by 298 U.S. 238.)

To attempt to review the vast body of law on this subject would unduly prolong this critique. I should point out, however, that none of the cases cited by Mr. Stokes gives any specific support for his charge that the delegation of authority in the bill is too vague or meaningless to be supported. The court in *Greene* v. *McElroy*, 360 U.S. 474 (1959), had no problem with the question of delegation of authority, even on the basis of implied ratification, except with respect to the question of authority for limitations on the safeguards of confrontation and cross-examination, an issue not in question in the bill because of its specification. (See page 506.) The case of *N.A.A.C.P.* v *Button*, 371 U.S. 415 (1963), from which Mr Stokes quotes, did not turn on the question of delegation of authority (pages 432–433). In this case the N.A.A.C.P. sought to enjoin the enforcement of a barratry-type statute of Virginia regulating and prohibiting the solicitation of legal business in the form of "running" or "capping". The statute, challenged in a declaratory judgment proceeding in the courts of Virginia and held applicable to the activities of the N.A.A.C.P., was on certiorari held invalid *as construed* by the Virginia court. The only issue in the case, said Mr. Justice Brennan, who delivered the opinion for the Supreme Court, was the constitutionality of Chapter 33 of the Virginia Act *as applied* to the activities of the N.A.A.C.P. (Page 419.)

On the other hand, *Yakus* v. *United States*, 321 U.S. 414 (1944), another case on which Mr. Stokes principally relies, and from which he quotes, was in fact a case involving the issue of delegation. However, Mr. Stokes should derive little comfort from this decision, for the delegation was upheld against the claim of vagueness. The case offers no support for his claim against the bill.

In *Yakus*, the validity of the Emergency Price Control Act of 1942, as amended, came into question. The declared purpose of that Act was to prevent war-time inflation and establish The Office of Price Administration under the direction of a Price Administrator (appointed by the President) who was authorized, after consultation with representatives of industry so far as practicable, to promulgate regulations fixing prices of commodities which "in his judgment will be generally fair and equitable and will effectuate the purposes of this Act" when, in his judgment, the prices "have risen or threatened to rise to an extent or in a manner inconsistent with the purposes of this Act." Yakus was tried and convicted of a violation of the Act by the sale of beef at prices above the maximum prescribed by the Administrator. On certiorari to the Supreme Court, Yakus questioned the validity of the Act on due process grounds, challenging the adequacy of the standards within which the Administrator was to act. In sustaining his conviction, the court held that the statute did not involve an unconstitutional delegation of the legislative power of Congress to control commodity prices in time of war.

Mr. Chief Justice Stone, speaking for the court, pointed out that the essentials of the legislative function are the determinations of the legislative policy and its formulation and promulgation as a defined and binding rule of conduct (p. 424). He continued:

"As we have said, 'The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality . . . to perform its function.' *Currin* v. *Wallace*, *supra*, 15. Hence it is irrelevant that Congress might itself have prescribed the maximum prices or have provided a more rigid standard by which they are to be fixed; for example, that all prices should be frozen at the levels obtaining during a certain period or on a certain date. See *Union Bridge Co.* v. *United States*, 204 U.S. 364, 386. Congress is not confined to that method of executing its policy which involves the least possible delegation of discretion to administrative officers. Compare *M'Culloch* v. *Maryland*, 4 Wheat. 316, 413 *et seq.* It is free to avoid the rigidity of such a system, which might well result in serious hardship, and to choose instead the flexibility attainable by the use of less restrictive standards. Cf. *Hampton & Co.* v. *United States*, *supra*, 408, 409. Only if we could say that there is an absence of standards for the guidance of the Administrator's action, so that it would be impossible in a proper proceeding to ascertain whether the will of Congress has been obeyed, would we be justified in overriding its choice of means for effecting its declared purpose of preventing inflation.

"* * * * *

"The directions that the prices fixed shall be fair and equitable, that in addition they shall tend to promote the purposes of the Act, and that in promulgating them consideration shall be given to prices prevailing in a stated base period, confer no greater reach for administrative determination than the power to fix just and reasonable rates, see *Sunshine Coal Co.* v. *Adkins*, *supra*, and cases cited; or the power to approve consolidations in the 'public interest,' sustained in *New York Central Securities Corp.* v. *United States*, 287 U.S. 12, 24–5 (compare *United States* v. *Lowden*, 308 U.S. 225); or the power to regulate radio stations engaged in chain broadcasting 'as public interest convenience or necessity requires,' upheld in *National Broadcasting Co.* v. *United States*, *supra*, 225–6; or the power to prohibit 'unfair methods of competition' not defined or forbidden by the common law, *Federal Trade Commission* v. *Keppel & Bros.*, 291 U.S. 304; or the direction that in alloting marketing quotas among states and producers due consideration be given to a variety of economic factors, sustained in *Mulford* v. *Smith*, *supra*, 48–9; or the similar direction that in adjusting tariffs to meet differences in costs of production the President 'take into consideration' 'in so far as he finds it practicable' a variety of economic matters, sustained in *Hampton & Co.* v. *United States*, *supra;* or the similar authority, in making classifications within an industry, to consider various named and unnamed 'relevant factors' and determine the respective weights attributable to each, held valid in *Opp Cotton Mills* v. *Administrator*, *supra.*"

Nor was the majority in *Robel* concerned with the question of delegation, although indeed, the concurring opinion of Mr. Justice Brennan went off on that ground. While recognizing that the area of "permissible indefiniteness narrows . . . when the regulation invokes criminal sanctions and potentially affects fundamental rights," Justice Brennan found no problem in the barring of *all* party members, whether or not "active" or "passive", from employment in defense facilities irrespective of whether or not the member occupied a sensitive position. His difficulty on the issue of delegation was the absence of standard for the designation of *defense facilities*. Reciting the principles enunciated in *Yakus* (p. 273–275), he felt that the standard delegated to the Secretary of Defense for the designation of "defense facilities" was "so indefinite as to be meaningless." This defect has been remedied by section 404 of the bill. Moreover, the bill invokes no criminal sanctions.

The Department of Justice, we will recall, found no problem in the bill with respect to the question of conforming to the standards of *Robel*, or on the question of vagueness of the delegation. It did make one suggestion for the inclusion of an ultimate standard that the granting of the access be "clearly consistent with the national interest". This standard has been supplied in the clean bill, although expressed in the terms of the "national defense interest". Moreover, even as the original bill stood, H.R. 12699, the Library of Congress likewise supported the bill on the question of delegations and concluded that:

"The definitions contained in § 402, more particularly the endeavor to define 'defense facilities' with a measure of specificity in § 404, coupled with the statement of objectives to be subserved in § 405, when read in conjunction, would appear to be adequate to provide the standards requisite for sustaining the delegation of authority to the Executive Branch to administer the above mentioned screening programs. According to established precedents, 'the Congress may not delegate its purely legislative power to' an executive agency; 'but, having laid down the general rules of action under which' the executive agency 'should proceed, it may require of that' agency 'the application of such rules to particular situations and the investigation of facts. With a view to making orders in a particular matter within the rules laid down by the Congress . . . if Congress shall lay down by legislative act an intelligible principle to which the executive agency vested with rule-making authority is directed to conform, such legislative action is not a forbidden delegation of legislative power' (*Field* v. *Clark*, 143 U.S. 649, 694 (1892); *Hampton Co.* v. *United States*, 276 U.S. 394, 408, 409 (1928). Although the Court has asserted that 'procedural safeguards cannot validate an unconstitutional delegation,' the nature of the proceedings appears to be one of the elements weighed in determining whether a specific delegation is constitutional. In cases where the delegated power is exercised by orders directed to particular persons after notice and hearing, with findings of fact and law based upon the record made in the hearing, the Court has displayed considerable liberality in sustaining vaguely phrased or abbreviated statutory expressions of purpose or standards as sufficient to meet constitutional requirements."

A recent case, decided on December 12, 1969, concurrently with the preparation of my report on the bill, is clearly in point and would seem specifically to dispose of Mr. Stokes' contention. That case, *Adam* v. *Laird*, (U.S. Court of Appeals for the District of Columbia Circuit, Wright, McGowan, and Tamm, Circuit Judges,) was a case expressly attacking the sufficiency of the standard for security clearance in proceedings under the Industrial Security program (E.O. 10865). It was charged that the standard authorizing denial of access to classified information unless "clearly consistent with the national interest," was not an identifiable standard. The court was unanimous in sustaining the adequacy of the standard, although Judge Wright dissented on another ground not relevant to this question. In the opinion for the court, Judge McGowan said:

"Appellant's final appeal to the Due Process Clause is formulated in terms of an asserted absence of (a) any adequately enunciated standard for evaluation of conduct disqualifying one for security clearance, and (b) findings showing a need for denial. Both of these claims take their departure from a substantive concept which appellant professes to derive from *United States* v. *Robel*, 389 U.S. 258 (1965), and their weight largely turns upon the validity of this premise.

"*Robel*, of course, did not involve the Industry Personnel Access Authorization Review Program. It was a criminal prosecution under the Subversive Activities Control Act of a Communist Party member for remaining in the employ of a defense plant after the Party had been found to be a Communist-action organization. The Supreme Court reversed the conviction on First Amendment grounds because, in its view, the statute swept too broadly and did not take into account such considerations as whether the individual's job was a sensitive one in terms of national security. The Court was, however, at some pains to recognize the power, and indeed the duty, of the national government to protect its secrets. It declared that '[t]he government can deny access to its secrets to those who would use such information to harm the nation.' Fastening upon the phrase 'would use,' appellant insists that security clearance may be withheld only when the government can 'point to a clear and present danger that a breach of security is actually threatened,' and that it is not enough that an applicant 'may be subject to coercion, influence or pressure.

"* * * * *

"We know of no constitutional requirement that the President must, in seeking to safeguard the integrity of classified information, provide that a security clearance must be granted unless it be affirmatively proven that the applicant 'would use' it improperly. We are not in an area of knowledge or experience where absolutes obtain, and the grant or denial of security clearances is an inexact science at best. Those who have that responsibility have to do the best they can with what they have, and the discretionary determinations they must inevitably make are not, as a matter of due process at least, required to conform to any such alternative standard as appellant advances. Appellant is not being sent to jail; he is being told rather that, on the information developed and the facts found after hearings, appellee cannot make a finding that giving him access to secret information is 'clearly consistent with the national interest.'

"The prescription of the standard to be observed in this field is for the President to make in the discharge of his executive functions. We do not second-guess that choice unless the Constitution commands us to do so. The one actually chosen in this instance falls, in our view, within the range of rational choice vested in the President by the constitutional concept of his office."

Although Mr. Stokes would prefer "more detailed guidelines," he does not specify what he would include. His fear that the bill in the absence of further guidelines can become a vehicle for "arbitrary and capricious actions" I do not believe that it is justified from the constitutional standpoint. Nor do I believe that it is justified from the practical standpoint. Certainly his fears cannot be justified on the basis of the administration or implementation of the existing program under E.O. 10865, or the prior program under the Magnuson Act. The details he seeks will be supplied by the President under the delegated power, which he may properly exercise "to fill up the details of the statute." *Wayman* v. *Southward*, 10 Wheat. 1 (1825). Moreover, no matter how detailed and specific the guidelines may be, there is always a possibility that those charged with the administration of any program may exercise their power arbitrarily or capriciously. However, any excess of this sort under the bill may be corrected by the courts, as in any other instance of arbitrary or capricious action.

Passing from his assertion that the bill fails to provide *any* meaningful standard, Mr. Stokes then claims that what standards the bill does set forth "produces more confusion than clarification." He cites the statement of purpose in section 404 setting forth the intention of Congress to protect certain facilities against the risk of "sabotage, espionage, and other acts of subversion." While finding no difficulty with the terms sabotage and espionage which he said are accorded conventional meanings by section 402(6), he quarrels with the definition of "act of subversion" contained in section 402(5). He does not quote the definition as a whole, but only a selected extract. He charges that the range of activity which would constitute an act of subversion "is boundless"; that from a constitutional standpoint the definition comprehends "protected as well as prohibited conduct," and that under it the President "would be justified in barring a worker employed in a defense industry because he took part in peaceful picketing of a chemical company in protest of its manufacture of napalm." In response to these claims, I would reply that his conclusions are not justified in any respect.

The definition in itself is not an operative provision of the bill, but is defined to give specific content to its use in connection with the screening programs authorized under other sections of the bill. The term is defined to embrace only intentional *acts* of unauthorized disclosure of classified information or of *damage* or *injury* to a facility or to its production and services, with specified motivations which are subversive in nature. The term neither in itself or when used in context in other sections of the bill makes punishable or proscribes any activity. It does, however, serve as a standard for implementation and makes the defined activities relevant to a determination for exclusion of access either to a sensitive position in a defense facility or to classified information.

The activities set forth in the definition are acts of intentional injury or intentional acts tending to cause damage or injury—matters totally divorced from pure speech—and, as such, may indeed be properly the subject even of penal prohibition. If they may be the subject of penal sanction, then indubitably they may form the basis for the application of lesser sanctions, namely, exclusion from access to sensitive positions in defense facilities or to classified information. (See *Giboney* v. *Empire Storage*, 336 U.S. 490, hereinafter briefed.) The specific intent with which the acts must be accompanied, expressed in four alternative categories, one of which includes that the act be committed with the intent to effect a plan of subversive organizations as described, does not bring the activity or the objectives of the bill within any category of "protected conduct". This is particularly true where the activity, accomplished with such intent, may even be made a criminal offense.

Hence, Mr. Stokes' suggestion that the language would "justify" barring a worker from employment for "peaceful picketing of a chemical company in protest of its manufacture of napalm" is obviously a misrepresentation of the effect of the definition, and is a charge without support in its language.

This is not to say, however, that neither "political strikes" nor "picketing" which causes *damage* or *injury* to any facility, or which would tend to cause damage or injury, if conducted with any of the four alternative intents set forth in the definition, may come within the ambit of the definition.

In *American Communications Association* v. *Douds*, 339 U.S. 382 (1950), a provision of the National Labor Relations Act withholding various benefits under that Act from labor organizations for failure of union officers to file a non-communist affidavit, was sustained on the basis that the Congress could legitimately employ the commerce power to prevent political strikes which would disrupt commerce, and could reasonably find that members of the Communist Party would utilize their positions to foment disruptive political strikes. Although the decision in this case was subsequently overruled in part on other grounds in a prosecution under an amendment to the Act, *United*

States v. *Brown*, 381 U.S. 437 (1965), Mr. Chief Justice Warren, speaking for the court in the latter case, declared, "Congress undoubtedly possesses power under the Commerce Clause to enact legislation designed to keep from positions affecting commerce persons who may use such positions to bring about political strikes." (Page 449f.)

In *Giboney* v. *Empire Storage and Ice Company*, 336 U.S. 490 (1949), a unanimous court upheld the action of a state court enjoining union members from *peacefully picketing* the company's place of business, finding that the purpose of the picketing was to induce the company not to sell ice to non-union peddlers. It was found that the picketing reduced the company's business by 85%, although conducted peacefully and without violence. A State of Missouri statute prohibited combinations in restraint of trade or competition. Justice Black, writing for a unanimous court, said that the states have a constitutional power to prohibit competing dealers from combining to restrain freedom of trade; that this statute could be validly applied to combinations of union workers, as well as business men who used their joint power to prevent sales to non-union workers; that the State of Missouri was not bound to exempt unions from its anti-trust laws; that the injunction against picketing in this case was not an unconstitutional abridgement of free speech, although the picketers were attempting peacefully to publicize truthful facts about a labor dispute.

Citing *Giboney*, Mr. Justice Douglas (in *Communist Party* v. *Control Board*, 367 U.S. 1, 173) said: "Picketing is free speech *plus* . . . and hence can be restricted in all instances and banned in some." For similar reasons, he indicated, the provisions of section 7 of the Subversive Activities Control Act of 1950, requiring registration of the Communist Party and its members were not, in his opinion, in violation of First Amendment rights. He said:

"We have, however, as I have said, findings that the Communist Party of the United States is 'a disciplined organization' operating in this Nation 'under Soviet Union control' with the aim of installing 'a Soviet style dictatorship' here. These findings establish that more than debate, discourse, argumentation, propaganda, and other aspects of free speech and association are involved. An additional element enters, *viz.*, espionage, business activities, or the formation of cells for subversion, as well as the use of speech, press, and association by a foreign power to produce on this continent a Soviet satellite."

In addition to misconceiving and misinterpreting what I believe to be the clear import of the language of the definition on "act of subversion," Mr. Stokes goes on to employ another *in torrorem argument*, likewise without support in the language of the bill, with respect to the designation of defense facilities. He says it is "conceivable" that a university might be designated as a defense facility because its science department is under government contract to provide "important classified military projects" and that the executive would be authorized to limit access to the entire university, as to each student and professor, unless such access would be clearly consistent with the national defense interests, and that "students and faculty members who express their disagreement with the university's involvement in defense work could be barred from campus." Suffice to say that this fanciful possibility has never, in fact, occurred even under the application of the vague provisions of section 5 of the Subversive Activities Control Act voided in *Robel*, or in the administration of E. O. 10865. There is no authority to be found in the provisions of the bill which, because its science department is engaged in a classified project, will authorize the denial of access to a university or to its campus. Nor is it conceivable that any such action would be undertaken, even by the most abtuse administrator.

Equally fanciful and without substance or support in the provisions in the bill is Mr. Stokes' charge that section 405(c) of the bill permits "an imposition of employment disability upon a worker in a defense industry merely because of his membership in groups expressing unpopular political and social ideas." This charge scarcely deserves an answer. It should be clear enough on the face of the bill and the language of the section, that section 405(c) permits no such result. In authorizing the President to establish criteria and to make investigations *relevant* to determinations to be made under the provisions of the bill for the purpose of controlling access to classified information and to sensitive positions in defense facilities, that section imposes no employment disability because of membership in a group expressing "unpopular political and social ideas" to any greater degree than that the espionage statutes would penalize the political ideas of the late Julius Rosenburg, a Communist who had filched the Nation's secrets to deliver them to the Soviet Union, or that a burglary statute would penalize the social ideas of a Willie Sutton, the notorious bank robber who was just released.

Here again, Mr. Stokes employs the vague euphemism of groups who "express unpopular political and social ideas," when it becomes apparent in his subsequent language of the paragrpah (on page 60) that he is referring to membership in the Communist Party or similar organizations seeking to overthrow constitutional government by unlawful force. Mr. Stokes is especially concerned that the effect of the authority contained in section 405(c), taken in connection with other provisions of the bill authorizing the screening program, would be to authorize the barring of current members of the Communist Party or of similar organizations seeking to overthrow constitutional government by unlawful force, from employment in sensitive positions in defense facilities and from access to classified information. He construes *Robel* as prohibiting that result. He takes the position that *Robel*, and such cases a *Scales* which involved a prosecution under the membership clause of the Smith Act, prohibits the application of criminal sanctions for membership in the Communist Party unless there is additional proof that the person has a "specific intent" to further the illegal goals of the organization, and that he is an "active" member of it. He argues that the denial of employment is likewise "a penalty", discouraging the exercise of "freedom of association protected by the First Amendment", and concluded that the bill would likewise be unconstitutional.

His conclusion is a *non sequitur*, resting on a misconception of the holding and effect of *Robel* and of *Scales*. Both cases involved the application of penal sanctions: applied in *Robel* as a "prophylactic" measure to screen subversives from defense facilities, in this instance without regard to the alleged "sensitivity" of the position of employment; and applied in *Scales* as a criminal prohibition to protect the government against activities in furtherance of a purpose to destroy it. In case of violation of either statute, the individual was liable to jail. This situation is clearly to be distinguished from the provisions of the bill which impose no penal sanction. Such a difference is, indeed, even conventionally manifested in the standards of proof, trial, and consequences attached to civil as distinguished from criminal proceedings.

Moreover, we should not only on this basis distinguish the situation between the bill, on the one hand, and *Robel* and *Scales* on the other. We may also distinguish the terms of the statutes and the situations in which penal sanctions are applied as between *Robel* and *Scales*. In *Scales*, we have the application of a pure criminal prohibition, whereas in *Robel*, the statute has a "regulatory" purpose which the penal sanction is intended to serve. The standards first established in *Scales* pursuant to the provisions of the Smith Act, with respect to the requirement of proof of "active and purposive" membership, are not *necessarily* relevant to the statute in *Robel*.

With such considerations in mind, it seems to me, we must evaluate the actual rationale and effect of the decision in *Robel*. Mr. Chief Justice Warren, speaking for the court in *Robel*, struck the prohibition down because of the comprehensive scope of its application. He said:

"It is made irrelevant to the statute's operation that an individual may be a passive or inactive member of a designated organization, that he may be unaware of the organization's unlawful aims, or that he may disagree with those unlawful aims. It is also made irrelevant that an individual who is subject to the penalties of § 5(a)(1)(D) may occupy a nonsensitive position in a defense facility. Thus, § 5(a)(1)(D) contains the fatal defect of overbreadth because it seeks to bar employment both for association which may be proscribed and for association which may not be proscribed consistently with First Amendment rights." (Page 267)

What he said in this respect must be read carefully. While pointing out relevant considerations to sustain such a prohibition as was employed under section 5, not *one* of which was incorporated in the section as a condition for the application of the penalty, he did not say that all of these considerations had to be found in the *conjunctive*. Indeed, in the subsequent paragraph he hastened to add:

"We are not unmindful of the congressional concern over the danger of sabotage and espionage in national defense industries, and nothing we hold today should be read to deny Congress the power under narrowly drawn legislation to keep from sensitive positions in defense facilities those who would use their positions to disrupt the Nation's production facilities. * * * Spies and saboteurs do exist, and Congress can, of course, prescribe criminal penalties for those who engage in espionage and sabotage. The Government can deny access to its secrets to those who would use such information to harm the Nation. And Congress can declare sensitive positions in national defense industries off limits to those who would use such positions to disrupt the production of defense materials."

The language of the decision was in fact expressly construed by two of the Justices as authorizing the barring of Communist Party members, both "active" and "passive," from employment in sensitive positions in defense facilities. Mr. Justice White with whom Mr. Justice Harlan joined, said, "the court would seem to permit barring respondent, although not an 'active' member of the Party, from employment in 'sensitive' positions in the defense establishment." (Dissenting opinion, page 284f.) Indeed, this appears to be the general conclusion reached by competent lawyers who have examined the decision. The Library of Congress (Legislative Reference Service) has said on this question in its report to me, "That an inactive passive Communist might be barred from a sensitive position in a defense facility was the only concession suggested by the majority" in Robel. Likewise, in the recent Ellis report (Dec. 1, 1969) to Secretary Finch on government employment, the same position was taken with respect to the effect of cases of this tenor as applied to government employment. (Page 19f.) Moreover, since the provisions of the bill, H.R. 14864, would (1) limit the application of such a bar to sensitive positions, (2) narrow those facilities which may be defined as defense facilities,

(3) establish specific standards for the determination of such facilities, and (4) specify detailed procedures for making determinations, I think it can be said with reasonable assurance that the bill is such narrowly drawn legislation as will support the exclusion of current members of the Communist Party, although "passive", from sensitive positions in defense facilities and from access to classified information.

Nevertheless, it must be made clear that while this is the intent of the sponsors of the legislation, the bill does not limit itself on this point. The bill does not establish a penal or other prohibition. The bill authorizes a *screening* program with the objective, to borrow the language of Robel, of keeping "from sensitive positions in defense facilities those who would use their positions to disrupt the Nation's productive facilities." As such, it is clearly within the authority of Congress under any view that may be taken on all the decided cases. The executive in specific cases must make an ultimate determination whether an individual's access to sensitive positions is "clearly consistent with the national defense interest". Thus, the bar is not, as was section 5 voided in *Robel*, directed specifically to mere membership, but requires a determination upon the totality of the circumstances of a particular case in the light of specific criteria and implementing rules established by the President. The bill is thus not committed to a specific requirement on this point and leaves the door open ultimately to a consideration of all the facts of a particular case and, indeed, even to further judicial clarification on facts to which the screening program may be applied.

In a sense, the bill "keeps its options open" on the issue of "mere" membership, although authorizing determinations under ultimate standards to which the question of membership is one of the relevant factors. Hence, the bill is not subject to Mr. Stokes' claim that it is unconstitutional on its face. The claim of unconstitutionality must await the application of the President's implementing regulations to specific circumstances. Whatever the result of such a case may be, the bill will not suffer, since the claim must then be directed to the implementing regulations or their application, and these, of course, can be adjusted readily to such action as the court may then specifically require. (See *McBride* v. *Roland*, 369 F2d 65, cert. denied, 387 U.S. 932.)

Finally, Mr. Stokes argues that although section 405(c) makes permissive rather than mandatory the "imposition of employment disability upon the basis of certain associations and affiliations," it does not cure alleged constitutional defects which he charges would arise on the basis of "vagueness". He claims that you are unconstitutionally delegating to an administrative agency "not only the power to implement policy, but the very right to formulate that policy."

However, the very case which he has cited in support of his general contention on this issue of delegation, namely, *Yakus* v. *U.S.*, *supra*, appears to be clearly to the contrary. It was there said (at page 425):

"It is no objection that the determination of facts and the inferences to be drawn from them in the light of the statutory standards and declaration of policy call for the exercise of judgment, and for the formulation of subsidiary administrative policy within the prescribed statutory framework. See *Opp Cotton Mills* v. *Administrator*, *supra*, 145–6, and cases cited."

Moreover, the charge of vagueness is undercut by the fact that the subsection of the bill requires that the "associations and affiliations" to which Mr. Stokes refers must be relevant to the determination to be made, and thus preclude the administrative agency from wandering far afield into associations which might properly be held in violation of the First Amendment.

Mr. Stokes seeks to fortify his general claim by the additional argument that the "possibilities for mischief" created by the bill are "expanded" by the limitations on the jurisdiction of courts contained in section 416. He says this section would permit an "incorrect determination" to stand until the administrative process has been allowed to run its course, and that by then the "stigma" of being declared "a security risk" would be "indelible." I cannot envision any specific circumstances where the operation of section 416 would in any material way have the result for which Mr. Stokes contends. Nor does he become specific on this subject or make any demonstration of the validity of his objection. What does he mean by "incorrect determination"? The "stigma" would not attach except on a final denial of clearance. If so, then the administrative process has run its course, and the individual is not barred from applying to the courts. On the other hand, if a suspension of clearance rests on an alleged failure of the applicant to conform to regulations, such as his refusal to cooperate in the inquiry, the applicant may assert his claim against the basis of suspension and is not barred by the section from testing his claim in the courts. In any event, the section only requires prior "exhaustion of administrative remedies," and in this respect merely establishes as a statutory requirement that which is already a well settled matter of common-law doctrine. (See *Remenyi* v. *Clifford*, 391 F. 2d 128, cert. denied Sept. 9, 1969.) Hence, it clearly appears that Mr. Stokes' argument on this point is also without substance.

INVESTIGATIONS

In this section of his dissent, Mr. Stokes likewise has several complaints. His preface to these, in which he makes the generalized complaint that the investigations spell an end of "privacy" in the lives of many, need not be answered in any detail. Quite obviously, in those areas of employment where investigations are needed, they must be made. Moreover, it is generally the guilty who are fearful of them, and not the innocent who seem quite happy to adjust to the needs of national security. Where the inquiry is relevant to the issue to be determined, the objection of Mr. Stokes is clearly not a valid one. The bill requires that the investigation be confined to relevant areas.

His specific complaints relate to section 413, with respect to the granting of immunity for compelled testimony; section 406, with regard to "obstruction of inquiry" under which a *willful* refusal to respond to relevant inquiries may be considered sufficient to justify suspending the further processing of an applicant's case until compliance is made; section 407(b), which limits confrontation and cross-examination; and section 416, relating to jurisdiction of courts.

He argues that section 413 "does away with the right of self-incrimination" by extending immunity to witnesses from criminal prosecution. He says the granting of immunity from criminal prosecution does not make this denial "any more constitutionally acceptable." I do not understand what he means by suggesting that such provisions are not "constitutionally acceptable." Immunity statutes of this type have been repeatedly upheld since Brown v. Walker, 161 U.S. 591, decided in 1894. Since that time, the Congress has adopted more than 40 such statutes, most of which have been made applicable to proceedings before administrative agencies. What Mr. Stokes apparently is saying, is simply that he does not like immunity statutes. In this respect he is not in accord with the law or policy.

Indeed, the course of the history of the law of evidence has been to expand the area of compelled testimony rather than to constrict it. Nor has our judicial system recognized a privilege against the giving of testimony on the basis that it will tend to "degrade or disgrace," as distinguished from incriminate. This is well settled in proceedings before the courts. In Brown v. Walker, supra, the court expressly rejected the argument that the validity of an immunity statute should depend upon whether it shields "the witness from the personal disgrace or opprobrium attaching to the exposure of his crime." See 161 U.S. 605–606. Moreover the Congress of the United States has by statute enshrined a similar rule with respect to the giving of testimony and production of papers before Committees of either House of Congress. The Act of June 22, 1938, 2 U.S.C. 193, has expressly provided that no witness shall be privileged to refuse to testify or produce papers before committees of Congress "upon the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous."

Finally, his argument that immunity may be granted only upon judicial permission has not received support in any decision of the courts. Most of the immunity statutes do not make the granting of immunity contingent upon judicial permission, and have been upheld. See, for example, *United States* v. *Monia*, 317 U.S. 424 (1943).

With respect to section 406, which authorizes the suspension of the processing of an applicant's case when he willfully refuses to respond to relevant inquiries in the course of investigation, Mr. Stokes alleges this provision to be "patently unconstitutional," as a violation of Fifth Amendment rights, because it puts such a person to the choice "between self-incrimination or job forfeiture," citing *Garrity* v. *New Jersey*, 385 U.S. 493 (1967).

Mr. Stokes' claim that section 406 is "patently unconstitutional" is without support in the language of the section. Nor is the *Garrity* case authority for this conclusion. When section 406 was drafted, we did so fully aware of the issue now raised by Mr. Stokes, and with the *Garrity* and subsequent relevant decisions in mind.

Section 406 of the bill, unlike the provisions of the New Jersey statute which was indirectly involved in *Garrity*, and a similar provision of a Department of Defense directive under E. O. 10865 involved in *Shoultz*, does not expressly require, although it would in general terms authorize, a removal or denial of clearance for refusal to answer questions on a claim of the self-incrimination privilege. This section of the bill authorizes a refusal further to process a case when there is a "willful refusal" to answer relevant inquiries, but it goes no further. Thus, apart from the question as to what supporting effect may be given to the immunity provisions included in section 413 of the bill, the bill leaves open the question of the propriety in a particular security clearance case of the refusal to process an application because of a refusal to respond on the basis of the Fifth Amendment privilege, and is hence not *on its face* invalid.

Nevertheless, it is our intent that section 406 will be *implemented* and *applied* to suspend the processing of clearance when the applicant persists in his refusal to respond to relevant inquiries on the claim of the Fifth Amendment privilege. We assume that the President will thus implement and apply the provision, at least in the absence of any binding decision of the courts to the contrary. Indeed, the Secretary of Defense has applied such a rule in implementing the present E. O. 10865. It has been approved in *Shoultz* v. *Clifford*, cert. denied December 8, 1969, a decision to which I shall hereinafter refer.

Garrity is not a case to the contrary. In *Garrity*, the appellants were police officers in New Jersey. The Attorney General, being invested with powers of inquiry and investiga-

tion, was ordered by the Supreme Court of New Jersey to investigate and report on alleged irregularities in handling cases in the municipal courts, particularly matters concerning the fixing of traffic tickets. Before being questioned, each appellant was warned that anything he said may be used against him in any state criminal proceeding; that he had the privilege to refuse to answer if the disclosure would tend to incriminate him; but that if he refused to answer, he would be subject to removal from office (under a statute of New Jersey which permitted the removal from office of any public employee who refused to testify on the ground of self-incrimination before a state body having the right to inquire into matters relating to his office). No immunity statute was applicable under these circumstances.

The police officers objected to the compulsion of their testimony, but nevertheless answered the questions. The response made by them was subsequently used in a prosecution of them for conspiracy. They were convicted and appealed to the Supreme Court of the United States. The Supreme Court reversed the conviction on the ground that their testimony was compelled in violation of the Fifth Amendment. The court, however, refused to pass upon the validity of the forfeiture of employment statute, for they said that was not directly involved and only bore upon the voluntary character of the statements used to convict the appellants in their criminal prosecutions.

The *Garrity* case does not support Mr. Stokes' charge that section 406 violates the Fifth Amendment. The *Garrity* case is authority only for the proposition that a person's testimony compelled over the claim of self-incrimination in one proceeding may not be used against him in another and subsequent criminal proceeding. This was made clear in the case of *Spevack* v. *Klein*, 385 U.S. 511, decided the same day, in which Mr. Justice Fortas, concurring, said that "this court has never held, for example, that a policeman may not be discharged for refusal in disciplinary proceeding to testify as to his conduct as a police officer. It is quite a different matter if the state seeks to use the testimony given under this lash in a subsequent criminal proceeding." Later cases, *Gardner* v. *Broderick*, 392 U.S. 273 (1968) and *Uniformed Sanitation Men Association* v. *Commissioner*, 392 U.S. 280 (1968), are not to the contrary.

In the latest case, *Shoultz* v. *Laird*, U.S. Court of Appeals for the Ninth Circuit, decided June 29, 1969, cert. denied by the Supreme Court on December 8, 1969, the precise question raised by Mr. Stokes was involved with respect to a Department of Defense regulation issued under E. O. 10865, providing as follows:

"In the course of an investigation, interrogation, examination, or hearing, the applicant may be requested to answer relevant questions, or to authorize others to release relevant information about himself. The applicant is expected to give full, frank, and truthful answers to such questions, and to authorize others to furnish relevant information. The applicant may elect on constitutional or other grounds not to comply. However, such a wilful failure or refusal to furnish or to authorize the furnishing of relevant and material information may prevent the Department of Defense from reaching the affirmative finding required by [Executive Order 10,865] in which event any security clearance then in effect shall be suspended by the Assistant Secretary of Defense (Administration), or his designee, and the further processing of his case discontinued."

This regulation was upheld over the claim that the DOD rule violated Shoultz's privilege against self-incrimination, although his refusal to answer inquiries found to be relevant were on the generalized ground that the questions were "incompetent, irrelevant, and immaterial." In so doing, the court said:

"In *Gardner* v. *Broderick*, 392 U.S. 273, 20 L. Ed. 2d 1082, 88 Sup. Ct. 1913 (1968), and in *Uniformed Sanitation Men Ass'n.* v. *Commissioner of Sanitation*, 392 U.S. 280, 20 L. Ed. 2d 1089, 88 Sup. Ct. 1917 (1968), the Supreme Court held that it was impermissible for a public employee to be discharged for his refusal to waive his right to immunity from subsequent prosecution in light of his fifth amendment right to avoid self-incrimination. The Court stated, however, that a public employee may be discharged from his job if, without being required to waive immunity, he refused to answer questions specifically, directly, and narrowly relating to the performance of his official duties. An employee's invoking of his constitutional privilege against self-incrimination would not, in such a case, be a bar to his dismissal from public employment. 392 U.S. at 278 and 283–84. There is no saving difference between these public employee cases and the situation wherein an industrial employee seeks to maintain, for the sake of keeping his job, his privilege of access to classified information involving matters relating to our national security.

* * * * *

"Since the failure upon ground of constitutional privilege to answer questions directly relevant to the performance of official duties may be proper cause for dismissal from public employment, *Gardner* v. *Sanitation Men, supra*, and since the refusal to answer similarly relevant questions upon ground of constitutional privilege may be cause for suspension of a security clearance upon which employment depends, Shoultz, *a fortiori*, must accept the consequences of his refusal to answer relevant questions upon the grounds that they are 'incompetent, irrelevant, and immaterial.' "

Finally, on this subject, it should be noted that the provisions of section 406 should not operate as a hardship on the applicant. They are drafted to give him the opportunity to make compliance, even in cases where his initial refusal is based on erroneous grounds. On compliance, he may have a resumption of the processing of his application which had been suspended by reason of his prior refusals.

The remaining objections, in relation to section 407(b), with respect to limitations on cross-examination, and section 416, with respect to the limitation on the jurisdiction of courts to issue injunctions having the effect of granting access to classified information or to sensitive positions, are, I believe, adequately dealt with in my report on the bill, and need not be further pursued here.

SECURITY OF VESSELS AND WATERFRONT FACILITIES

Mr. Stokes does not deny that the provisions of the bill are adequate to establish authority for the restoration of a personnel security screening program for personnel on merchant vessels and waterfront facilities. Needless to say, he could hardly do so in the light of the provisions of section 2 of the bill, which expressly authorize it. Nor can he deny that the Congress has a constitutional power to do so. "Needless to say, Congress has constitutional power to authorize an appropriate personnel screening program and to delegate to executive officials the power to implement and administer it." (Mr. Justice Fortas, concurring in *Schneider* v. *Smith*, 390 U.S. 17, 28, and citing *Robel* in support of this conclusion.)

Fearing principally that such a screening program may stray into forbidden areas, and citing instances in the dicta of *Schneider* where that question has been raised, he then assumes that section 2 of the bill would authorize the President to institute "broad" and "improper" inquiries. Indeed, the relevancy of some of the questions asked of Schneider and to which the justices adverted, does not clearly appear on the face of the majority and concurring opinions. Nevertheless, his conclusion that the bill would authorize "improper" inquiries is not supported in its provisions.

On the contrary, section 2 of the bill authorizes only the application of the procedures of Title IV. In turn, section 405(c) of Title IV authorizes and specifies only such inquiries as are *relevant* to the determination to be made. No sworn essays or statements of "belief" or "philosophy" are authorized. Indeed, the "associations" into which inquiry may be made, limited by section 405(c) to those which are relevant, are further limited by definition of that term in section 402(8) to *activities* objectively manifested. Thus conduct, not "beliefs" or "philosophy," may be the subject of inquiry under the provisions of the bill.

His final claim, that the section, in contrast to employees in defense industry, "does not trouble to grant any semblance of procedural due process to prospective seaman," likewise rests on a misapprehension of the clear terms of the section. By this section, the procedures authorized with respect to determinations for access to sensitive positions in defense facilities and to classified information are expressly made applicable to seamen. The procedures of Title IV are thus incorporated by reference. It is difficult to understand how this fact escaped the attention of Mr. Stokes.

CONCLUSION

Mr. Stokes concluded that H.R. 14864 "is flawed in nearly every provision by problems of constitutionality and legislative wisdom." The logic of this statement escapes me. I doubt whether one may logically conclude that legislation is "flawed" simply because there are "problems" of constitutionality and wisdom which may be argued with respect to it. In practically every piece of legislation, one has to inquire whether it is within constitutional limits and whether it is wise to enact it. It is hence not the existence of the problem which is in issue, but how one solves it. As appears from this critique, Mr. Stokes has cited no case which makes his conclusion imperative.

Nor does his final citation of alleged authority, *Shelton* v. *Tucker*, 364 U.S. 479 (1960) justify his conclusion. In this case, the Supreme Court considered the validity of an Arkansas statute, which compelled every teacher, as a condition precedent to employment in a state-supported school or college, to file annually an affidavit listing without limitation every organization to which he belonged or regularly contributed within the preceding five years. The statute was held invalid on Fourteenth (First) Amendment grounds.

It is important to note that the statute in this case did not establish the purpose for which his affidavit was required, except to declare that "it is hereby determined that it *will be beneficial* to the public schools and institutions of higher learning and the State of Arkansas, if certain affidavits of membership are required as hereinafter provided." What was the purpose of the statute? To prevent subversion? To bar employment to members of the N.A.A.C.P.? To determine whether the teacher was dissipating his time and energy on other than his occupation as a teacher? This did not appear.

Shelton refused to execute the affidavit required by the statute, and his contract for the ensuing year was not renewed. He then applied to the courts, challenging the validity of the statute. At trial, evidence was offered showing that he was not a member of the Communist Party, or any organization advocating the overthrow of the Government by force. On the other hand, it was shown that he was a member of the N.A.A.C.P.

The Supreme Court divided 5–4, with

Justices Frankfurter, Clark, Harlan, and Whittaker dissenting. Justice Stewart, speaking for the majority, pointed out that there can be "no doubt" of the right of a state to investigate the competence and fitness of those whom it hires to teach in its schools. He said:

"This controversy is thus not of a pattern with such cases as *N.A.A.C.P.* v. *Alabama*, 357 U.S. 449, and *Bates* v. *Little Rock*, 361 U.S. 516. In those cases the Court held that there was no substantially relevant correlation between the governmental interest asserted and the State's effort to compel disclosure of the membership lists involved. Here, by contrast, there can be no question of the relevance of a State's inquiry into the fitness and competence of its teachers."

However, as Justice Stewart pointed out, this was not the question. He said:

"The question to be decided here is not whether the State of Arkansas can ask certain of its teachers about all their organizational relationships. It is not whether the State can ask all of its teachers about certain of their associational ties. It is not whether teachers can be asked how many organizations they belong to, or how much time they spend in organizational activity. The question is whether the State can ask every one of its teachers to disclose every single organization with which he has been associated over a five-year period. The scope of the inquiry required by Act 10 is completely unlimited."

This situation is thus clearly distinguishable from the terms of the bill. The bill makes clear its purpose to control subversive activities, and authorizes only such inquiries as are relevant thereto. It by no means authorizes or requires a searching inquiry into *all* organizational relationships, but only those relevant to the purpose of the bill and, of course, to the President's implementing regulations. The bill authorizes a screening program, and hence, unlike the Arkansas statute, makes no specification of particular inquiries, except the general rules and limitations within which the President is to implement the program. And it does so within the constitutional authority of the Congress. Other questions arising on the application of the program to particular circumstances, must await its application.

Mr. QUILLEN. Mr. Speaker, I compliment the gentleman from Missouri (Mr. ICHORD), and each member of his committee, for their diligent work.

Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. COLMER. Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ICHORD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of Union for the consideration of the bill (H.R. 14864) 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.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14864, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Missouri (Mr. ICHORD) will be recognized for 1 hour, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 1 hour.

The Chair recognizes the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, at the outset I would like to take this opportunity to pay tribute to the members of the committee for their patience and for the long and hard work which they performed in bringing this bill to the House. Particularly does my tribute apply to the members of the subcommittee and is applicable not only to the four members who voted for the bill, but also to the single member who voted against the measure, the distinguished gentleman from Ohio (Mr. STOKES) because this bill does bear the imprint of many of the suggestions the gentleman made in the committee. As a matter of fact, I do not recall that the gentleman from Ohio offered a single amendment which was not adopted. He did offer several suggestions which I put in the form of amendments that were later adopted by the committee.

As a matter of legislative history, I should point out to the House that a great many hours and a great many days have gone into the consideration of this bill, not only in the committee but outside the committee. For example, there were, I believe, six preliminary drafts that were submitted to me before the original bill, H.R. 12699, was introduced. The committee then held hearings, very extensive hearings. During the hearings some 50 specific changes were suggested by witnesses and members. In the markup of the bill by the subcommittee, 30 amendments were adopted, and H.R. 14864 is a clean bill that was introduced by me and the other sponsors at the instruction of the subcommittee that finalized the legislation.

The gentleman from Ohio has filed a dissenting opinion. I have every respect for the ability and the competence of the gentleman from Ohio as an attorney. However, his conclusion that the measures of this bill are unconstitutional escapes me by way of logic. I doubt if this opinion is held by many competent lawyers in this field.

Before the bill was introduced I submitted the same to the Library of Congress. The Library of Congress advised me that this measure was constitutional on its face. I share that opinion.

This is also the opinion of the Department of Justice. I bring to the attention of the Members of Congress the exchange between Congressman STOKES and Mr. Yeagley, the Assistant Attorney General of the Department of Justice. In the hearings on the bill Mr. STOKES sought to press his point that this measure was unconstitutional, and he asked whether Mr. Yeagley had examined this bill thoroughly with respect to its constitutionality; that is, keeping in mind first amendment rights, the constitutional right to be confronted by one's accuser, and that sort of thing. Mr. Yeagley replied as follows:

Mr. YEAGLEY. Yes, we think we have. We have spent a lot of time on it. We have had lawyers working on this bill, incidentally, who are also lawyers who argue the cases in court and prepare the briefs.

Mr. STOKES. Have they expressed to you any qualifications with reference to the constitutionality of any of the sections of the bill?

Mr. YEAGLEY. No, only insofar as we have made suggestions and recommendations. We have no way of knowing in any case whether we are going to win a constitutional test. The same would be true of this program with or without congressional authorization.

We think that it would be held constitutional.

That is the statement of Mr. Yeagley.

I have no doubt, Mr. Chairman, about any of the provisions of this bill. I submit that they are not only constitutional but that they also represent an effective and fair means of balancing the interests of the individual against the security interests of the Nation.

This was the challenge of the committee, to balance the rights and the interests of the individual against the security interests of the Nation.

Some of the specific provisions of the bill may be earnestly debated. I believe there is room for difference of opinion. In some cases the Members may believe that we leaned too far to the rights of the individual, and in other cases the Members may believe we leaned too far toward the security interests of the Nation. But in balance, in its totality, it does represent a measure which will effectively and fairly bar subversives in this Nation from having access to sensitive positions in defense facilities, from having access to classified information.

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

Mr. ICHORD. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentleman, the able chairman of the Internal Security Committee, for his splendid presentation.

Mr. ICHORD. I have not gotten into the specific provisions yet, I will say to the gentleman from Oklahoma.

Mr. EDMONDSON. May I ask the gentleman if he intends to put into the RECORD the opinion obtained from the legal division of the Library of Congress when we go back into the full House?

Mr. ICHORD. Yes. I shall do that when we go back into the full House.

Mr. EDMONDSON. I believe that would be helpful.

Mr. Chairman, I support the bill.

Mr. Chairman, it is inconceivable to me that this Nation should be without legal means to bar the employment of security risks in sensitive positions in our defense plants. It is equally inconceivable that we should be unable to protect, by legal means, our defense secrets.

The Committee on Internal Security has worked hard on this matter and has reported a bill which appears to me to be both constitutional and necessary.

I hope and trust it will be approved by an overwhelming vote.

Mr. ICHORD. Mr. Chairman, let me get to the specific provisions of the

legislation which we are now considering.

The need for the legislation came to public attention in 1967, when the U.S. Supreme Court decided the case of United States against Robel. The case of United States against Robel dealt with the employment of an admitted Communist in a defense facility.

He was prosecuted under section 5 of the Internal Security Act for holding such employment while a Communist Party member. The Supreme Court of the United States held that section 5 of the Internal Security Act of 1950 was unconstitutional, which resulted in his continued employment.

Let us look at section 5, title I, of the Internal Security Act. It reads as follows:

When there is in effect a final order of the board determining any organization to be a Communist-action organization or a Communist-front organization, it shall be unlawful (1) For any member of such organization, with knowledge or notice of such final order of the board (C) in seeking, accepting or holding employment in any defense facility, to conceal or fail to disclose the fact that he is a member of such organization or (D) if such organization is a Communist-action organization, to engage in any employment in any defense facility;

The Supreme Court of the United States in the case of United States against Robel voided section 5 on the ground of overbreadth. The Court pointed out that section 5, which provided both penalty sanctions and job disability sanctions did not distinguish between sensitive and insensitive positions; it did not distinguish between passive and active members of the Communist Party. However, Chief Justice Warren in his opinion in United States against Robel did a very unusual thing. Speaking for the Court, Justice Warren said this:

We are not unmindful of the congressional concern over the danger of sabotage and espionage in national defense industries, and nothing we hold today should be read to deny Congress the power under narrowly drawn legislation to keep from sensitive positions in defense facilities those who would use their positions to disrupt the Nation's production facilities. We have recognized that, while the Constitution protects against invasions of individual rights, it does not withdraw from the Government the power to safeguard its vital interests. *Kennedy* v. *Mendoza-Martinez*, 372 U.S. 144, 160 (1963). Spies and saboteurs do exist, and Congress can, of course, prescribe criminal penalties for those who engage in espionage and sabotage. The Government can deny access to its secrets to those who would use such information to harm the Nation. And Congress can declare sensitive positions in national defense industries off limits to those who would use such positions to disrupt the production of defense materials.

Here, Mr. Chairman, the Supreme Court itself has actually implored the Congress of the United States to legislate within this field. H. R. 14864 is, I submit, narrowly drawn legislation that will protect the rights of the individual and will successfully bar subversives from employment in sensitive defense positions. It is not a matter of avoiding the decisions. It is merely a matter of drafting effective and institutional legislation.

This is the way it is done. First, the bill has four main objectives. One, it establishes what is called an industrial defense program.

We have no industrial defense program at the present time. That was voided by the case of United States against Robel.

We define in the bill what are "facilities."

We further define what are "defense facilities."

We further define what is a "sensitive position."

We lay down standards for the executive in defining "sensitive positions" in defense facilities. Then, we authorize a screening program laying down standards for the executive to follow in carrying out the screening of individuals who are seeking employment in such sensitive positions.

Second, the bill lays a legislative base for an industrial security program which is now being operated by the executive under Executive Order 10865 setting forth procedures for the granting of access to classified information. This program, however, Mr. Chairman, is filled with deficiencies.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. ICHORD. Mr. Chairman, I yield myself 5 additional minutes.

The CHAIRMAN. The gentleman is recognized for 5 additional minutes.

Mr. ICHORD. I think the Congress has been remiss in not legislating in this field because there are several deficiencies in that program which do not adequately protect the rights of the individual. For example, let us say that a person has a top secret clearance and access to top secret information, information that has been designated by Executive order as top secret. Suppose someone makes a charge against him that he has been, for example, carrying on negotiations with known spies or saboteurs? Under the present program this gentlemen does not have the compulsory process in order to make a defense if he does have a valid defense. The present program does not provide for compulsory process. This legislation would make available to the applicant the power of subpena in order to prepare and present his defense.

Under the present program most of the people testifying against the individual will be Government employees. The Government can pay their transportation to the place of hearing. However, the individual who is called upon to make a defense does not have compulsory process at his disposal.

This bill establishes a legislative base for the continued operation of that program. It is much more carefully drawn than that which the executive is now operating under, Executive Order 10865.

The third objective which the bill seeks to accomplish is to establish procedures to be followed in granting an individual access or in denying an individual access. In all cases the individual is entitled to a court review of the administrative proceedings in order to meet due process requirements.

The fourth principal objective of the bill is to set up a screening program for access to merchant marine facilities, which was voided by the 1968 case of Schneider against Commandant. The case of Schneider against Commandant held that the Magnuson Act did not authorize the executive to conduct a screening program, to determine access to vessels, ports, harbors and waterfront facilities and therefore the applicant for security clearance could not be denied clearance under such a program.

So H.R. 14864 gives explicit authority to the executive to conduct a screening program under the Magnuson Act for access to merchant marine facilities.

In closing, Mr. Chairman, may I say this: I do not contend that this is a perfect bill. I have yet to see a bill come before this body which is perfect, but this measure has been drafted in the light of all of the court cases surrounding the problems in this area. I submit that it is constitutional, it is effective. It does provide the individual with fair hearings, fair treatment, and if the Members of this House will study the provisions of this bill I believe each and every Member will give it his wholehearted support.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. ICHORD. Mr. Chairman, I yield myself 3 additional minutes.

Mr. ECKHARDT. Mr. Chairman, would the gentleman yield?

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

Mr. ECKHARDT. Mr. Chairman, will the distinguished gentleman clarify one point with respect to the procedure by which one may bring a hearing where he has been denied access to certain facilities? Take, beginning on page 9 of the hearing procedures, on page 10——

Mr. ICHORD. The gentleman is referring to section 407 of the bill?

Mr. ECKHARDT. This is section 407. On page 10, section (b), the applicant is given generally the right to cross examination of his accusers, and to in that way, of course, have access, I assume, to the information upon which his exclusion from facilities has been based, or I understand that that is the purpose of section (b) of the section I have referred to.

And paragraph (b) at the bottom of page 10——

Mr. ICHORD. The gentleman is referring to the restrictions upon the right of the individual to confrontation of witnesses, and the right to cross examination; is that correct?

Mr. ECKHARDT. If the gentleman will pardon me, I had not gotten to that. I simply said that section (b) generally gives the right of interrogation and cross examination of those who had given oral or written information.

Mr. ICHORD. Right.

Mr. ECKHARDT. Then under section (b) (1) and (2), there is provision for certain exceptions to such cross examination, as I understand it.

Mr. ICHORD. That is correct, and I would point out to the gentleman that

those exceptions are narrower than under the present program operated under Executive Order 10865. I would further point out that there is no constitutional right of confrontation guaranteed by the sixth amendment of the Constitution. The sixth amendment only applies to criminal procedures. There are no criminal sanctions provided for in this bill.

What we are concerned about, if I may continue, is the case, where the Government, if it is required to present an intelligence agent to be cross examined by the applicant might be forced to bare the whole intelligence apparatus of the United States.

Mr. ECKHARDT. I understand that.

Mr. ICHORD. We do generally provide for the right of confrontation. This is only the very exceptional case. We put very severe restrictions upon these cases. This decision can only be made by the head of the department.

Mr. ECKHARDT. This is the point I want to get at.

Mr. ICHORD. This also should be taken into consideration—if there is a denial of the right of confrontation, that decision can only be made by the head of the department.

Also the applicant will still be permitted a court review of those administrative proceedings and we provide that the matter of denial of confrontation must be considered in making the final decision.

Mr. ECKHARDT. How does he get his court review?

Mr. ICHORD. He would be required first of all to exhaust his administrative remedies. Let us assume that this is a case where the Government fears that if the individual is given the right to cross-examine an intelligence agent, the whole intelligence apparatus might be exposed.

The decision not to permit confrontation will be made by the screening board—the adjudicatory hierarchy will be the screening board, the field board—the review board. He will exhaust his administrative remedies just as under the administrative procedures act. Then, of course, he would be entitled to go into court.

Mr. ECKHARDT. How does he get his cross-examination, if he does go into court?

Mr. ICHORD. There would be no cross-examination under those circumstances. But the court would look to see if this hearing has been fairly and lawfully conducted. I would state to the gentleman that this is being done presently under Executive Order 10865. I would say to the gentleman that this matter has been considered by the U.S. Supreme Court just a few days ago in the case of Remenyi against Clifford, where the Supreme Court denied certiorari.

I will say to the gentleman that these are very exceptional cases. They should be exceptional cases. The fact that the applicant is not entitled to the right of confrontation should be taken into consideration in the decision that is made and the bill requires such consideration. I do not expect many of these cases to arise but it will arise.

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

Mr. ICHORD. I yield to the gentleman.

Mr. YATES. In whose discretion is the question of whether or not evidence upon which the action is taken should be made available to the person involved?

For example, suppose the Department acts and decides that in the interest of national security, no information should be given to the respondent—can he then go to court and ask the court to make that evidence available?

Mr. ICHORD. No, he cannot. Not at that point. He would have to exhaust his administrative remedies. He could go to court and seek appropriate relief after he had exhausted his administrative remedies.

Let us consider the procedures now being followed under Executive Order 10865. At the present time the head of the Department has only to make a decision that the party affected shall be denied confrontation for reasons that he himself considers good. We clarify that. We nail it down for the reasons set out in the legislation, and I think it should be nailed down. I am sure the gentleman will support the restrictions we have placed upon the Government in order to protect the rights of the individual.

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

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

Mr. YATES. In connection with crime bills that are now pending before the Congress, applications for "no-knock" proceedings, for example, or applications for search warrants have to be made by application to the court in the absence of the defendant. But the case has to be made out by the court. Why would it not be well to provide that the Department must represent to the court that the national security requires that no further inquiry be made into the case, in which case the court would be bound by that assertion. In such instances that representation would be made to the court, a modest additional safeguard, but a safeguard nevertheless.

Mr. ICHORD. I will say to the gentleman from Illinois that I would not only consider it unwise to require the executive to go to the courts in the cases he mentioned, first, because it is not the responsibility of the judiciary to determine who shall have access to top secret information; second, I would say it would also be unconstitutional under the doctrine of the separation of powers. This is a decision to be made by the executive. It is not, in this case, a decision to be made by the judiciary. Why should the judiciary be given the power to order the executive to reveal state secrets? No, I think that in and of itself is unconstitutional.

However, there have been some decisions of the courts getting into the field with their injunctive proceedings that do ignore this serious constitutional question. We deal with that in the bill.

Mr. YATES. The point I was making was that perhaps there ought to be a protection of the rights of the individual as well, to the extent that is possible. If the court were presented with a question as to whether or not making the evidence available were a violation of the security of the country, the court could not make it available.

Mr. ICHORD. Yes. but let me give the gentleman one example that happened recently. I refer to the Shoultz case, who held a classified clearance. Information was obtained which indicated that security clearance should no longer be granted. He was asked certain questions about his connection with the Castro regime. He refused to answer those questions on the ground that they were irrelevant and immaterial.

The Board then refused to further process his case. Shoultz then went into the district court. Listen to this, Members of the House, Shoultz went into the district court, and the district court ordered the DOD to grant Shoultz a clearance.

The case then went up to the circuit court of appeals. The circuit court of appeals reversed the district court, but they kept the injunction in effect, still retaining his secret clearance. It was not until just the other day that we got a final decision from the Supreme Court where they refused certiorari in the Shoultz case. All the time his clearance remained in effect.

Here is what the DOD is concerned with. They are faced with a choice of either discontinuing that project or risking the revelation of Defense secrets. That is the reason why the position of the gentleman from Illinois cannot be sustained.

The material referred to follows:

THE LIBRARY OF CONGRESS,
Washington, D.C., August 27, 1969.

To: House Internal Security Committee, Attention: Hon. Richard H. Ichord, Chairman.

From: American Law Division.

Subject: Appraisal of constitutionality of H.R. 12699 (91st Congress).

The following is submitted pursuant to your request of July 15, 1969. Appraised in the aggregate this measure would appear to be immune from challenge as being unconstitutional on its face. As hereinafter noted, however, the abstract wording of several of its provisions leaves open the prospect that issues of constitutionality more likely will be generated not so much by the adoption of the measure as by the manner in which it will be enforced. Inasmuch as this proposal was drafted with a view to eliminating certain deficiencies recently detected by the Supreme Court in national security programs, specifically, a want of congressional sanction for the administration thereof by the Executive Branch, consideration is devoted at the outset to a review of those provisions of H.R. 12699 which are designed to supply adequate legislative authorization.

I. ADEQUACY OF STATUTORY DELEGATION OF AUTHORITY TO THE EXECUTIVE BRANCH

(a) *Statutory authority for conduct of screening program barring disloyal personnel from access to various defense facilities and to classified information therein—Greene* v. *McElroy*, 360 US 474, 492–493, 499, 504–508 (1959); *United States* v. *Robel*, 389 US 258, 272–282 (1967).

The definitions contained in § 402, more particularly the endeavor to define "defense facilities" with a measure of specificity in § 404, coupled with the statement of objectives to be subserved in § 405, when read in conjunction, would appear to be adequate to provide the standards requisite for sustaining the delegation of authority to the Executive Branch to administer the above mentioned screening programs.

According to established precedents, "the Congress may not delegate its purely legislative power to" an executive agency; "but, having laid down the general rules of action under which" the executive agency "should proceed, it may require of that" agency "the application of such rules to particular situations and the investigation of facts. With a view to making orders in a particular matter within the rules laid down by the Congress . . . if Congress shall lay down by legislative act an intelligible principle to which the executive agency vested with rule-making authority is directed to conform, such legislative action is not a forbidden delegation of legislative power" (*Field* v. *Clark*, 143 US 649, 694 (1892); *Hampton Co.* v. *United States*, 276 US 394, 408, 409 (1928). Although the Court has asserted that "procedural safeguards cannot validate an unconstitutional delegation," the nature of the proceedings appears to be one of the elements weighed in determining whether a specific delegation is constitutional. In cases where the delegated power is exercised by orders directed to particular persons after notice and hearing, with findings of fact and law based upon the record made in the hearing, the Court has displayed considerable liberality in sustaining vaguely phrased or abbreviated statutory expressions of purpose or standards as sufficient to meet constitutional requirements. Appraised in terms of these established tests, §§ 402, 404, 405, and the procedural protection afforded by §§ 407 and 409, subject to one qualification hereinafter noted, may be viewed as adequately empowering the Executive Branch to establish and administer effective screening programs (*United States* v. *Rock Royal Co-op.*, 307 US 533, 576 (1939); *Sunshine Coal* v. *Adkins*, 310 US 381, 398 (1940); *Opp Cotton Mills* v. *Administrator*, 312 US 126, 144 (1941); *American Power Co.* v. *S.E.C.*, 329 US 90, 107, 108 (1946)).

(b) *Statutory authority for conduct of a screening program under Magnuson Act (50 USC 191) barring disloyal personnel from access to American merchant vessels and port installations—§ 2, pp. 22–23—Schneider* v. *Smith*, 390 US 17, 22–23, 25 (1968).

For the reasons hitherto set forth, there are sound grounds for concluding that the congressional sanction to be added to the Magnuson Act by § 2 of this measure will prove adequate for purposes of overcoming the deficiency noted in *Schneider* v. *Smith*, specifically, the absence of a grant to the President of "express authority to set up a screening program for personnel on merchant vessels of the United States." Standing alone, § 2 appears to be devoid of the standards by which executive officers are to be guided in utilizing a delegation of statutory authority; but this deficiency may be eliminated by the incorporation in § 2 of a reference to the preceding provisions of Title IV. If the "service facilities" to be designated as "defense facilities" by the Secretary of Defense under § 404(c)(4) are open to interpretation as including the relevant facilities enumerated in § 402(1); namely, vessels, piers and waterfront installations, then the standards and objectives together with the procedural protection set forth in these provisions as well as in § § 405, 407–408 will suffice to supply the guidelines requisite for sustaining the validity of the delegation of authority conferred upon the President by § 2.

II. INTERPRETATION TO BE ACCORDED DEFIFITIONS AND TERMS

(a) *"Facilities"* (§ 402(1)) as distinguished from *"defense facilities"* (§§ 402(2); 404).

Although the initial § 402 suggests that the terms, "facility", and "defense facility" are distinguishable, a reading of § 404 indicates that "defense facility" is a broader term; and, as construed and applied by the Secretary of Defense, may comprehend items in all the categories enumerated as "facilities" in § 402(1). If that be the case, questions may be raised as to the accuracy of his interpretation of such terms and phrases as (1) "service facilities" (§ 404(c)(4)) and "substantial portion of total national capacity" (§ 404(c)(4)—page 6, line 6). Whether the term, "service facilities", even as qualified by lines 8–12 on page 6, comprehend specific vehicles, aircraft, or highways may be open to challenge no less than whether a certain defense facility "accounts for a substantial portion of total national capacity." By virtue of this prospect that the Secretary's interpretation of these terms and phrases may be productive of dispute, an observation made by Justice Brennan in *United States* v. *Robel*, op. cit., pp. 278–281, may be deserving of consideration. To attribute finality, according to Justice Brennan, to a determination (§ 404(d)—page 6, lines 20–21) by the Secretary of Defense that a specific service facility is a defense facility or that a defense facility accounts for "a substantial portion of total national capacity" would deprive an employee of an opportunity to controvert the accuracy of such conclusion (and also, perhaps, the Secretary's conclusion under § 404(e)—page 7, lines 7–9) at any hearing accorded to him under the terms of §§ 407, 408; and such deprivation, in his estimation, gives rise to procedural unfairness. Whether the privileges accorded to the employee at such hearings (§ 407(a)(2)) negative this possibility cannot be determined with assurance.

Inasmuch as §407(d) provides for consultation by the Secretary of Defense with management and organized labor prior to his designation of a facility as a defense facility, the concurrence of management and labor in such designation may well render the Secretary's decision noncontroversial or practically immune from challenge as to its accuracy; but the fact that the Secretary, notwithstanding objections from either labor or management, nevertheless may proceed to effect the designation of a defense facility would seem to provide all the more reason for affording an opportunity to the employee at his hearing to question the Secretary's decision.

(b) *Sensitive* (§402(4); *act of subversion* §402(5); *association* (§402(8); *affiliation* (§402(9); *presidential criteria* (§405(c)).

Whether these provisions, when read in relation to each other, will prove adequate to overcome the result reached in the *Robel* case cannot be determined with assurance. Although the personnel of the Court has undergone alteration; and although the majority of five in *Robel* did assert that "nothing we hold today should be read to deny Congress the power under *narrowly drawn* legislation to keep from sensitive positions in defense facilities those who would use their positions to disrupt the Nation's production facilities", the one inescapable fact is that only three Justices (White, Harlan, Brennan) believed that the Constitution, especially Amendment I, interposed no obstacles to enforcement of a determination by the Congress that dangers to national security warranted exclusion from employment in defense facilities, sensitive or otherwise, of inactive, passive members of the Communist Party. That an inactive, passive Communist might be barred from a *sensitive* position in a defense industry was the only concession suggested by the majority (*United States* v. *Robel*, op. cit., pp. 266–267, 271–273, 281–282).

Without effecting the repeal of any existing legislation, the proposed measure, if adopted, would empower the President, through reliance upon the provisions and sections cited at the outset, to exclude from defense facilities, from sensitive posts within defense facilities, or from access to classified information within such defense facilities persons guilty of committing "acts of subversion" or, presumably, persons guilty of affiliation with organizations engaged in the commission of such acts of subversion, sabotage, or espionage. As presently drafted, the provisions concerning "association" and "affiliation" are devoid of any mention of the specific organizations to which the association or affiliation pertains; and one is left to assume, from a reading of the provisions of § 405, that affiliation or association encompasses organizations engaged in, or intent upon committing, acts of subversion, sabotage, or espionage.

Inasmuch as these provisions, excepting those embracing acts of espionage and sabotage, are new, and several are not as precise as might be desired, they may be expected, upon enactment of H.R. 12699, to generate a new round of litigation calculated to amplify their meaning and the scope of their application. For the latter computation the only tools that are readily available are the past precedents in which legislation regulating subversive activities have been construed. Unless the Court, as presently composed, is prepared to record an appreciable departure therefrom; and, by liberal utilization of the balancing test, to attribute greater importance to congressional determination of what is necessary to promote internal security than to considerations of individual liberty, it is difficult to foresee that exclusions of other than subversives from defense industries, will be achieved by the proposed measure. Amplification of subversives to embrace passive, inactive Communists as well as Communists pledged to effectuate the objectives of the Party might be the maximum point of departure from past holdings. The rejuvenation of the "clear and present" danger test (*Brandenburg* v. *Ohio*, 395 US 444 (1969)) conceivably might contribute in some undefined way against imposition of the disabilities authorized by this measure upon ex-Communists and individuals whose affiliations do not extend beyond organizations engaged, not in overt acts of violence, but in the advocacy of revolution as an ethical or philosophical concept (*Communications Associations* v. *Douds*, 339 US 846, 421–422, 443–444 (1950)).

III. SECTION 406—PAGES 8–9; OBSTRUCTION OF INQUIRY

As indicated in *Shoultz* v. *McNamara*, 282 F. Supp. 315, 520 (1968), an employee or applicant for employment might refuse to answer certain questions, not on the ground that his responses might tend to incriminate him, but because he deems the specific questions to entail invasions of his privacy, freedom of association, or freedom of belief, and therefore violative of rights protected by Amendment I. If the hearing authorized under this section proves to be adequate and is afforded promptly, the latter probably will suffice to overcome the contentions of the employee applicant. Moreover, precedents such as *Konigsberg* v. *State Bar*, 366 US 36, 44 (1961) and In *Re Anastaplo*, 366 US 32, 84, 86, 95 (1961) are authority for the proposition that if the hearing accorded is otherwise procedurally adequate, responses to unprivileged but relevant questions deemed to constitute invasions of Amendment I rights nevertheless may be demanded as a means of testing the veracity and credibility of the individual subject to interrogation and of determining his qualifications.

IV. SECTION 407—PAGES 9–13; HEARING PROCEDURES

Notwithstanding concessions to the "applicant," set forth in subsections (c) and (d)(2), to compensate for denials, dictated by considerations of national security, of his right to confront and cross-examine witnesses against him and to inspect records admitted into evidence, it is not possible, as of this date, to assert definitively that these denials will be sustained as constitutional. In

GREENE v. MCELROY, 360 US 474, 506–507 (1959), a bare majority of five Justices intimated that they would condemn, on grounds of denial of due process, any enactment which sanctioned a security clearance program whereunder an executive employed by a defense contractor could be deprived of employment by revocation of his security clearance *without a hearing* at which he had no opportunity to confront, examine, and cross-examine *confidential informants* who had supplied information impugning his loyalty. Acknowledging shortly thereafter that the Due Process Clause of Amendment 5 does not require a trial type hearing in every conceivable case of governmental impairment of private interest, the Court, again by only a bare majority of five Justices, upheld the summary exclusion on security grounds, without hearing or advice as to the basis for the exclusion, of a concessionaire's cook from the Naval Gun Factory in Washington. Deemed to lead support to this ruling was the historically unquestioned power of a commanding officer to exclude civilians from the area under his command. Only recently, in a scarcely analogous precedent, a criminal prosecution involving prospective utilization of evidence seized illegally by electronic surveillance, the Court, by a vote of five to three, refused to grant any concessions to the government in deference to national security; and ruled that the government either must forego prosecution or permit defendants, suspected of espionage, to inspect before trial the recordings of illegally overheard conversations (ALDERMAN v. UNITED STATES, 394 US 165 (1969) CAFETERIA WORKERS v. MCELROY, 367 US 886 (1961).

Admittedly, if the validity of the procedures described in § 407 were challenged subsequently to the enactment of H.R. 12699, the controversy presented would differ substantially from those discernible in the aforementioned precedents. The hearings conducted in conformity with § 407 would embrace no criminal prosecution to which the constitutional guaranty of confrontation (Am. 6) is expressly applicable. The installation from which an employee was confronted with a denial of access very probably would not be a facility under the command of the military. Finally, two of the deficiencies which contributed to the holding in *Greene* v. *McElroy* would not be present; namely (1) the absence of a hearing, and (2) want of statutory authorization for the security procedures employed. Perhaps, by recourse to the balancing test, whereunder the competing interests of national security and the rights of the individual are assessed, the Court might be persuaded to conclude that the significance of the former outweighs the latter, and warrants a ruling upholding the constitutionality of the hearing procedures described in § 407. However, the inadequacy of favorable relevant precedents scarcely affords any cause for undue optimism as to fulfillment of the latter forecast. While conceding that confrontation hitherto has been sacrificed in the interests of national security in administrative proceedings affecting government employees, employees of government contractors, and maritime workers, a number of commentators have predicted that in the future the Court will not countenance the suppression of such individual rights. The views of several are set forth in articles appended to Hearings on Security and Constitutional Rights, conducted by Subcommittee on Constitutional Rights of the Senate Judiciary Committee in 1959; 86th Cong., 1st Sess., (pts. 3–4).

V. SECTIONS 413(A)—PAGES 16–17; AND 2—PAGES 22–23—IMMUNITY PROVISIONS

As disclosed in the response to part III of this report, certain questions which an applicant or an employee may refuse to answer may be unprivileged; that is, his refusal is rested, not on the ground that his response may tend to incriminate him, but rather upon the contention that the questions invade rights protected by Amendment I, such as freedom of association or freedom of belief. Apart from the fact that persistence in such refusal may cost him a job or denial of access to classified information or employment in a sensitive area, it is believed that such refusal could not be made the basis of a criminal prosecution under the terms of these immunity provisions.

VI. SUBDELEGATION ISSUE—DELEGATION OF DISCRETION TO PRIVATE EMPLOYER TO ENFORCE SCREENING REGULATIONS—§§ 405, 415, 2.

If executive officers charged with administering these provisions are disposed to transfer a portion of the rule-making authority conferred upon them to private corporations or institutions as employers for the purpose of expediting effectuation of the screening and clearance programs sanctioned by this measure, it is conceivable that a constitutional issue might arise. In precedents established during the Depression of the 1930's, the Supreme Court ruled that private trade groups could not be empowered to issue regulations having the binding force of law (*Schechter Corp.* v. *United States*, 295 US 495, 537 (1935); *Carter* v. *Carter Coal Co.*, 298 US 238, 311 (1936).

NORMAN J. SMALL,
Legislative Attorney.

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

Mr. ASHBROOK. Mr. Chairman, I yield 15 minutes to the gentleman from Indiana (Mr. ROUDEBUSH), the ranking member of the committee that considered the bill.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. ROUDEBUSH. Mr. Chairman, I rise in strong support of H.R. 14864 which is designed to strengthen the internal security of our Nation.

As we know, during recent years there has been an erosion of our internal security laws.

This decline of legal means to prevent subversion, espionage and sabotage has derived in some degree from the effects of Supreme Court decisons.

I happen to be one of those Members of Congress who believes that the Court has leaned too far in the direction of leniency in this area which has stripped our defense-oriented industry of minimum security safeguards.

It is to strengthen this area of internal security that the House Committee on Internal Security, under the dedicated leadership of Chairman ICHORD, has prepared H.R. 14864. At this juncture, I wish to commend Congressman ICHORD for his leadership.

There are five major provisions of this bill which will amend the Internal Security Act of 1950.

These provisions will enable our Government to establish and maintain a reasonable and effective industrial and port security program, in conformity with constitutional requirements, and do so in a manner consistent with the interests of labor, industry and Federal security requirements.

These principal provisions will:

First. Authorize the President to institute a personnel security screening program to check individuals in sensitive positions consistent with an objective of preventing acts of espionage, subversion, and sabotage.

Second. Provide congressional sanction for the safeguard of classified information released to contractors.

Third. Give congressional authority for the screening of personnel in our ports and harbors and on ships and other waterfront facilities. These safeguards were in effect under four successive Presidents until struck down by the Supreme Court in 1968.

Fourth. Establish procedures for the administration of the above programs.

Fifth. Authorize the President to develop a voluntary program in cooperation with business and labor to protect facilities of importance to the defense of the United States, including the dissemination of appropriate intelligence information to responsible officials of industry and labor.

It is the heavy responsibility of Congress to provide for the maintenance of our defense posture.

Adequate safeguards are not possible if subversives are not screened from these sensitive installations.

It is no secret that there is a constant struggle for access to classified information by enemies of this Nation.

Our defense-related industrial plants and laboratories are and have been a prime target for Communist espionage, subversion, and quite possibly, sabotage.

One of the great turning points in history, and quite possibly the crime of the century, was the theft of America's atomic bomb secrets by persons who should have never been permitted access to this information.

We are told by our intelligence agencies that a large percentage of Soviet nationals in this Nation ostensibly as foreign service officers or diplomats, are actually here for espionage purposes.

I believe it is time to start rebuilding our defense security position, and repairing the damage to these efforts by recent court decisions.

Your House Committee on Internal Security recommends H.R. 14864 as an urgently needed safeguard, and I am pleased to be associated with this legislation, as one of its sponsors.

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

Mr. ROUDEBUSH. I yield to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, I am happy to join the gentleman from Indiana (Mr. ROUDEBUSH), in support of this legislation.

We have heard some comment today about constitutional provisions. We know that the Supreme Court has ruled in this area a number of times, and on one of its most recent occasions the Court did in fact invite the Congress to pass legislation of this kind. If I read that record of the Court correctly, I interpret that decision and the comment made attendant thereto as an expression of the Court that something would indeed have to be done but that the Congress had to pass additional legislation so that the job could be accomplished properly.

I am very happy to join in support of this legislation.

Mr. ROUDEBUSH. I will say, in response to the gentleman's observation, what he says is indeed correct. The Court

in fact, as was stated by the chairman of the committee when he made his presentation just a few moments ago, commented about congressional prerogatives and the need for this supplemental legislation. I appreciate very much the gentleman's observation.

Mr. KYL. I thank the gentleman for yielding.

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

Mr. ROUDEBUSH. I yield to the gentleman from Indiana.

Mr. BRAY. I want to congratulate the gentleman for his remarks.

I congratulate the entire committee for bringing this important matter before the Congress.

A country which does not take steps to protect itself from its enemies is guilty of stupidity, and I trust our country will not be so guilty.

Mr. ROUDEBUSH. I thank the gentleman for his comment.

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

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

Mr. WIGGINS. I appreciate the gentleman's yielding.

I wish only to clarify some language which disturbs me. Specifically, I am concerned about one of the definitions in section 402 of the bill, the definition of an "act of subversion."

That definition includes any act which causes, and the precise language is, "damage or injury" to any facility.

I should like to know whether or not the words "damage or injury" encompass only physical damage and physical injury or whether they include the interference with production, for example, which might result from a demonstration?

Mr. ICHORD. Mr. Chairman, will the gentleman yield to me so that I might answer that particular question.

Mr. ROUDEBUSH. I yield to the gentleman from Missouri.

Mr. ICHORD. I did personally frame the language in this particular section.

First I should like to point out that this is a definition section. It is not an operative section of the bill. It is set up to serve as a standard for the President in establishing the criteria and determining the extent of the investigation.

There is no penalty whatsoever provided in the bill for the definition of subversion. It is merely a guideline for the people who are called upon to make the decision of granting clearance to sensitive positions or access to classified information.

That could possibly be something other than physical damage or physical injury. If the individual is concerned about innocent acts which might be considered as subversion, I believe that is cured—I am very sure it is cured by the language:

> When committed with the intent to impair the national defense, or to advantage a foreign power, or to prejudice the security of the United States against its enemies,

Or "when committed" under certain other circumstances that are provided for in the bill.

I appreciate the question of the gentleman. It is a good question. I believe it is necessary to clarify the definition. I would also refer the gentleman to my response to Mr. STOKES for a further elaboration of the effect of this definition section.

Mr. WIGGINS. I appreciate the chairman's clarification. I will now ask the ranking Republican member if he shares the chairman's view that the words "damage or injury" include more than physical damage or physical injury?

Mr. ROUDEBUSH. For the sake of legislative history here, I would be happy to say, as the ranking Republican member of the subcommittee, I concur with the statement of our chairman 100 percent.

Mr. WIGGINS. I thank the gentleman.

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

Mr. ROUDEBUSH. I yield to the gentleman from Virginia.

Mr. SCOTT. I thank the gentleman for yielding.

I rise merely to commend the gentleman for the statement he has made and the committee for bringing this proposal before the Committee of the Whole for consideration today.

I hope that we will have a rollcall vote on this measure, because I believe those of us who feel strongly about matters such as this will be able to publicly be recorded as favoring this type of legislation.

I thank the gentleman.

Mr. ROUDEBUSH. I certainly join with the other members of the committee in thanking the gentleman for his support. I assure him it is the intention of the committee to secure a rollcall vote.

Mr. ASHBROOK. Mr. Chairman, I yield 15 minutes to the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, the passage of the defense facilities bill is absolutely necessary for the survival of our Nation. There are in the United States today a number of subversive and extremist organizations which are prepared to overthrow our Government by force and violence. We must have legislation to effectively meet and defeat the challenge which these groups present. The Federal Government has an obligation to provide a means to defend our Nation from the constant threat posed by the subversive elements in our midst. In this connection, I want to briefly review some conditions and incidents we have experienced in the last few years to show the nature of the threat and why we so urgently need passage of the defense facilities bill of which I am a cosponsor.

The emergence of the so-called New Left movement in this country in recent years has attracted much public attention because of its flagrant resort to violence. The New Left consists of many radicals, anarchists, socialists, Communists, and malcontents. This movement, which is best typified by its primary component, the Students for a Democratic Society—SDS—has targeted what it defines as the "military-industrial" complex. Some examples of recent plans and incidents are as follows:

In December 1967, Greg Calvert, a national representative of the SDS, announced that the SDS and other New Left groups were organizing and planning efforts to disrupt the national "war-making efforts" all over the country.

In January, 1968, a pamphlet entitled, "What Must We Do Now?—An Argument for Sabotage As the Next Logical Step Toward Obstruction and Disruption of the U.S. War Machine," was prepared in Canada and copies mailed to organizations in this country opposed to U.S. involvement in Vietnam. The pamphlet referred to the need for increased radicalization of the antiwar movement and urged the utilization of incendiary devices to immobilize war industries. The pamphlet strongly emphasized the clandestine nature of such violent activity and urged that only two or three persons be knowledgeable of any action in order to preclude compromise.

We must take cognizance here of the May 1968 fire which caused $45 million worth of damage at the Rocky Flats, Colo., plant of the Atomic Energy Commission. Federal security officers are conducting an intensive investigation of possible sabotage in the mysterious blaze which interrupted the manufacture of plutonium and disrupted nuclear warhead production.

The militant mood of the SDS was certainly obvious at its national convention held in East Lansing, Mich., at Michigan State University, in June 1968. At this convention, methods to disrupt Government installations were discussed in a sabotage and explosives workshop. Suggestions included flushing bombs in toilets to destroy plumbing; using sharp, tripod-shaped metal instruments to halt vehicles; firing Molotov cocktails from shotguns; jamming radio equipment; and dropping thermite bombs down manholes to destroy communications systems.

Five persons active in various phases of the New Left were charged with a number of bombings in the San Francisco, Calif., area, including the destruction of three Pacific Gas & Electric Co. towers in June 1968.

The underground press has played a prominent role in preparing malcontents for sabotage. For example, a June 1968 issue of The Rat, a New Left underground newspaper published in New York City, carried an article and diagram describing the manufacture of a homemade bomb out of ammonium nitrate and a length of pipe. This particular issue concluded by promising that a subsequent issue would contain detailed plans for making thermite bombs.

In September 1968, three ROTC establishments were sabotaged and a fourth threatened within a 5-day period across the country. In the same month, the Naval ROTC building at the University of California at Berkeley was damaged by explosives which caused damage in excess of $25,000. Two previous attempts were made to firebomb this building in 1968.

On September 29, 1968, the local CIA office at Ann Arbor, Mich., was bombed. Ann Arbor is the home of the University of Michigan where there has been an abundance of New Left activity in the

past several years. The New Left at the university, and specifically the SDS, has claimed credit for the bombing of this CIA office.

At a SDS national council meeting in Boulder, Colo., during early October 1968, a six-page leaflet bearing the title "Sabotage" was made available to the delegates. It contained detailed instructions for making fire bombs, booby traps, incendiary time bombs, and train mines. It also had detailed directions on how to make two types of hand grenades. One section of the leaflet dealt with the placement of booby traps, as in books, behind doors, and under wooden planks. Another section dealt with making incendiary time bombs to destroy railroad tracks, and tells where the charges can be set to make repairs most difficult. Further, the leaflet gave instructions on the destruction of iron and steel beams.

There have been widespread instances of bombings and arson of public facilities since the pamphlet became available.

An outstanding example was the dynamiting of four high-powered transmission towers in January 1969, in and around Denver, Colo. Following an extensive investigation, Cameron David Bishop and Steven Lester Knowles, both reported to be associated with the SDS, were indicated on charges of sabotage. Bishop is presently a fugitive from justice.

On December 3, 1968, Michael Suskind, a student at Washington University, St. Louis, Mo., and a member of the SDS, was seized by authorities as he placed a fire bomb at the campus headquarters of the university ROTC. He was later convicted in Federal court on a charge of sabotage and sentenced to 5 years' imprisonment.

A bomb exploded on the fifth floor of the criminal courts building in New York City on November 12, 1969, causing extensive damage. Some 250 persons at the night criminal courts, three floors below, fled the building and several persons were treated for shock. Shortly thereafter, the FBI and police arrested three men and a woman in connection with a series of bombings, attempted bombings and bomb threats that have swept New York. Of particular interest was the fact that the woman arrested, Jane Alpert, was identified as an employee of The Rat, the underground newspaper to which I previously made reference. According to an announcement by the FBI, two of the men were caught while putting dynamite time bombs into U.S. Army trucks at a National Guard armory in Manhattan. Earlier in the week, three Manhattan skyscrapers were bombed. On November 12, 1969, alone, police in New York City said they had more than 150 bomb scares.

In Wisconsin, on January 6 of this year, an unsuccessful attempt was made to bomb an Army ammunition plant from a stolen airplane as part of a wave of terrorist attacks on area military and selective service installations. Three undetonated bombs had been found at the Badger Army Ammunition Plant, north of Madison. Discovery of the bombs was made after an anonymous caller, who identified himself as "the vanguard of the revolution," said members of his group had stolen a two-seater Cessna 150 plane from a suburban Madison airport.

The summer of 1969 witnessed a systematic program by SDS to make contact with workers in industry. SDS used what it called a "work-in" project designed to link its student revolutionaries with workers. The SDS issued literature setting forth suggestions on how to research the job situation, what jobs to look for, how to approach employers, and what to expect on the job. After obtaining summer jobs in industry, the brochure told SDS members how to contact and establish rapport with the workers. Although this project was not successful in accomplishing its objectives, it points out the potential that revolutionary groups, such as the SDS, have for infiltrating defense industries for the self-avowed purpose of "smashing the military-industrial complex."

Today, there are over 100 different black extremist groups in the United States with many thousands of members and additional thousands of sympathizers. The major black extremist group is the Black Panther Party—BPP—based in Oakland, Calif. A year ago this group had only about 125 members in Oakland. Today, with a phenomenally expanding membership, it is operating in some 24 cities with approximately 1,200 hardcore members. The BPP is self-described in its literature as "the armed body for carrying out the political tasks of revolution."

In early April, 1969, 21 members of the BPP were indicted in New York City on charges of conspiring to commit murder and arson and for the possession of weapons and explosives. It was alleged that these individuals had conspired to dynamite the tracks of the New Haven branch of the Pennsylvania Central Railroad in New York City; that they had planned to place bombs in midtown department stores; and that they had plotted to bomb a police station to assassinate police officers.

Another example of black extremist groups preparing for disruption of our economy occurred in April 1968 in a Southern State, where a black student conference sponsored by the Student Nonviolent Coordinating Committee was held. Among the items discussed at a "defense workshop" at this conference were the following: Use of Vietnam war veterans to train black people in demolition, use of booby traps, location of vulnerable spots on armored vehicles; and the use of black college students to instruct black people in adjacent communities in the preparation of Molotov cocktails.

Revolution for the Communists is a "science" of which sabotage is an important element. The Communist Party's underground has long pursued a program called colonization designed to place concealed party members in strategic positions in basic industries and defense facilities. Colonization is part of the party's industrial concentration program, which aims at increasing Communist influence in industry and labor. This always has a high party priority. In the event of an emergency, these colonizers, because of their key positions and concealed capacities, would be in position to commit sabotage. A trained Communist, by a flip of a switch, the pull of a lever or the release of an incendiary device has the potential to impair a significant phase of our country's defense efforts.

During the Stalin-Hitler pact of 1939–41, the line of Moscow and, therefore, of the Communist Party, U.S.A., was that everything possible must be done to sabotage defense preparations and production in this country. The aim here was to prevent the United States from giving effective military aid to free nations which were then fighting Hitler and also to delay our defense production so that this country would be unprepared, or inadequately prepared, to take part in the war against the Axis Powers.

A wave of sabotage strikes hit U.S. defense industries during this period. These strikes, for weeks and months, tied up the Allis-Chalmers plant in Milwaukee, Wis.; the International Harvester plant in Chicago, Ill.; the Aluminum Co. of America plants in Cleveland, Ohio; the North American Aviation Co. plant in Inglewood, Calif., a strike which was so serious that it compelled the President to order the Army to take over the plant; and the Vultee Aircraft and Harvill plants in Los Angeles. Additional strikes were called by the Transport Workers Union in New York City, by the International Woodworkers of America, and by the Mine, Mill & Smelter Workers Union. A congressional investigation found that each one of the strikes had been engineered by a Communist union official. Although most of the men who took part in them were not Communists, the strikes served the interests of the Soviet Union and Nazi Germany. It should be noted that the Mine, Mill & Smelter Workers Union was expelled from the CIO in 1950 because of its Communist domination. The Transport Workers Union and the International Woodworkers of America were described by a congressional committee in 1944 as having "Communist leadership—strongly entrenched."

In the summer of 1951, at the height of the Korean war, the Mine, Mill & Smelter Workers Union, which had been labeled as Communist-dominated by the CIO itself, called for the first strike in the history of this Nation against the big four of the copper industry—Kennecott, Anaconda, Phelps-Dodge, and the American Smelting & Refining Co. The strike affected 100,000 workers and shut down 95 percent of U.S. copper production at a time when copper was in shortest supply of all strategic materials vital to the Korean war and our general defense production. When the Mine, Mill & Smelter Workers called this strike, the Daily Worker, official organ of the Communist Party, praised it and held it up as a model for all other unions. There can be no question about the fact that this strike, staged by Communist union leaders, served the interests of the Soviet

Union, Red China, and the entire Communist-bloc and that it posed a serious threat to the United States. Yet, it was basically loyal, non-Communist American trade unionists who made this sabotage action possible and took part in it.

We must not be unprepared for a recurrence of such incidents. The Communist Party has recently reorganized its plans to infiltrate industry. In what it calls its program of concentration in industry the party has targeted the auto, steel, and electrical supplies industries. The party's strategy was laid out at a meeting of the party's national committee held in New York City last September. At this point, I insert an article from the November 15, 1969, issue of Human Events, captioned "Communist Party Reorganizes To Infiltrate Industry," written by Victor Riesel. This article certainly shows that the party is prepared to sabotage defense preparations and production in this country.

Within recent years we have noted a substantial increase in the membership of the Communist Party, of which its general secretary Gus Hall, has boasted. There has also been a marked proliferation of other Communist and Marxist oriented organizations and groups. It is clear that our Nation shall face increasing problems and dangers in the critical years ahead. During 1969, there were approximately 100 cases of sabotage, or suspected sabotage, reported to law-enforcement authorities. To limit our shield of protection to penal statutes on sabotage and espionage—punishing the act, after it is done—is comparable to locking the barn door after the horse has been stolen. Preventive measures are of primary utility. H.R. 14864 gives legislative authority and direction for such measures.

As additional material of great significance, I want to insert for the RECORD pertinent portions of the testimony of Mr. John Edgar Hoover, Director, Federal Bureau of Investigation, before the House Subcommittee on Appropriations, on April 17, 1969, covering "Espionage and Counter-Intelligence."

The House Committee on Internal Security gave this bill searching and comprehensive consideration. This legislation is sound and essential to the welfare of our Nation. I urge my colleagues to enact this important amendment to the Internal Security Act of 1950.

The material referred to follows:

[From Human Events, Nov. 15, 1969]

COMMUNIST PARTY REORGANIZES TO INFILTRATE INDUSTRY—WILL COMPETE WITH SDS, BLACK PANTHERS

(By Victor Riesel)

PITTSBURGH.—Old revolutionists never die. They don't even fade away. They churn up new committees and head for the troubled waters in the nation's mainstream. Perhaps jugular would be the better word.

Thus the news of a new strike wave has swung the Communist Party, U.S.A.—and its hard-core 10,000 to 12,000 members—into action. Its leaders and their followers are skilled "undergroundists." They know that timing is everything. Now they're moving into what they call their "Program of Concentration in Industry." It will be a professional operation with no digression for SDS unprogrammed, amateurish—albeit bloody—street fighting and cop baiting.

These revolutionists are realists. They have no mass base. The heavy recruiting of the '30s is their own impossible dream and they know it is part of their memoirs.

They have urbanized Mao's guerrilla tactics. They now seek but 500 strategically placed young new activists in three industries, in a handful of concentration points (such as this Iron City) in such carefully selected areas as Michigan, Illinois, Ohio, Indiana as well as here in western Pennsylvania where the comrades have been running a sex mill.

The target industries are "auto, steel and electrical supplies." Up for special smearing are AFL–CIO President George Meany and United Steelworkers leader I. W. (Abe) Abel.

Up for infiltration are the picket lines of today and tomorrow, the General Electric strikers and the mass formations expected in the almost inevitable auto confrontation next fall and the national steel stoppage a year later.

It has all been developed like a battle plan. Step by step the strategy was laid out by the Communist party's National Committee. Some hundred of the party's carefully screened National Committee met secretly in New York City's Hotel McAlpin for three days beginning September 20. They were ignored, for they called their gathering the Socialist Workers Seminar.

There it was decided that the three top party leaders would each lead a concentration—America's own Brezhnev, Gus Hall, assigned himself to command of the industrial concentration in steel, centered here in Pittsburgh. His black comrade, Henry Winston, was assigned the auto industry because of the concentration of black workers in the car factories. And Daniel Rubin, third in the party's hierarchy, since he is national organization secretary, was given the electrical industry.

They will work out of their 26th Street party headquarters in New York, but will constantly shuttle between there and Michigan, Illinois, Ohio and Pittsburgh.

These veteran revolutionists are long-term strategists and smart short-term strategists. First things first. They know that the black community has passed them by. They know, for example, that they have no worthy communication pipeline into such huge concentrations of black workers as the membership of the big Ford Local 600, United Auto Workers, in Detroit.

They know the Black Panthers have outromanticized them. They know the SDS has the majority of the way-out-left street actionists.

So they have infiltrated the Black Panthers, split them and now have many of their cadres fighting along class and not color lines. This was not difficult, since at most now there are 1,200 Black Panther members in some 40 chapters. The figures are J. Edgar Hoover's. They are, therefore, scientifically accurate.

So the party leaders have decided to put their own show on the road. They have created the "Temporary Organizing Committee for a New Marxist-Leninist Youth Organization."

While most Americans will be Yuling it up the day after Christmas with the man in the white beard, the Communists will be paying homage to old black beard, Karl Marx, in Chicago. There the new Marxist-Leninist Youth Organization will open its three-day founding convention on December 26.

Its objective is the uniting of black and white working class youth for infiltration in industry. Thus with a single maneuver the party hopes to broaden its base among the black youth, bring white young people in as their comrades and start seeding industry with strategically placed "sleepers."

At the same time party headquarters in New York has directed all "party districts to hold conferences in industrial concentration by January 1970." All leading party officials have been ordered to "assist industrial concentration clubs in person." Top leaders of the party will assume responsibility for various industries. By April 1970 the "concentration" is to be rolling.

Obviously the party has been directed by the "American Desk" of the Soviet's Central Committee to get swinging. And just as obviously the party cannot produce the kind of industrial mass base which almost gave it control of the CIO in the late '30s and early '40s.

But it can disrupt. It can send small cadres onto the picket lines to provoke violence. It can provoke police reaction as strike after strike wave hits thousands of plants. It can "image" America as a land where the police "shoot down the workers." It can provide its fraternal parties abroad with anti-American propaganda that could inflict deep political hurt on our friends during elections being fought by forces friendly to the U.S. from Santiago, Chile, to Ceylon—from Paris to Singapore.

You can be sure, Moscow always gets its money's worth.

ESPIONAGE AND COUNTERINTELLIGENCE

Reports from a host of reliable FBI sources clearly indicate no letup on the part of the Communist countries in their intelligence attacks against the United States for the purposes of penetrating our national defense interests. As all Americans know, it is the intent and objective of Russia and the other Communist countries to spread their brand of the Communist system wherever possible.

The coverage and thwarting of these foreign intelligence activities have over the years resulted in a steadily increasing workload for the FBI.

SOVIET UNION AND OTHER COMMUNIST COUNTRIES

Bases for the intelligence operations of the Communist bloc continue to be their official establishments including their diplomatic establishments and their delegations to the United Nations. The intelligence services of the Communist-bloc countries continue to make full use of all of these as a cover for their operations. Many of the officials assigned to these establishments are actually intelligence officers engaged in the clandestine direction of intelligence agents and sources in our country.

In carrying out their aims we find the Communist intelligence services attempting to penetrate such key U.S. agencies as the FBI, CIA, State Department, and Department of Defense.

SOVIET-BLOC OFFICIAL PERSONNEL

The official personnel of the Soviet-bloc countries openly in this country play an important role in this vast intelligence-gathering operation. The number of official personnel of the Soviet bloc here on April 1, 1969, totaled 2,537, including dependents. Some idea of the number of intelligence personnel involved can be obtained from the fact that a Soviet defector has stated that 70–80 percent of all personnel assigned to Soviet diplomatic establishments work in the intelligence field.

This chart shows the total Soviet-bloc official personnel in this country on July 1 for the years 1963 through 1968 and the current complement here on April 1, 1969. It also illustrates the fact that over the years the number has increased substantially.

Most of the official personnel of the Soviet bloc in this country are from Russia. This chart gives a breakdown by countries of the Soviet-bloc official personnel in the United States as of April 1, 1969.

In addition to the officials, there are those deep-cover intelligence agents operating in our country who have no ostensible connection with their foreign principal. Once a

deep-cover agent has gained entry to our country, he easily becomes assimilated into our vast population under an assumed identity. His detection and identification at this point become a counterintelligence problem of extreme magnitude.

CUBA

Since Fidel Castro established a Communist beachhead in Cuba in 1959 he has from that point forward spared no effort to expand the Communist takeover to the remainder of Latin America. As a result, Cuba represents the greatest potential threat to peace in the Western Hemisphere. In this regard, Castro has not only publicly supported open rebellion by Communist-led groups in most of Latin America, but he has supplied men, materiel and logistical support in a further effort to overthrow existing democratic regimes in Latin-American countries.

Significantly, in addition to the training of guerrillas for the exportation of Castro's revolution to other Latin-American countries, information has come to our attention that Negroes are being trained in Cuba for infiltration into the United States. This is particularly important when viewed in the light of open support given during several recent international Communist conferences held in Havana to the concept of armed insurrection by black power advocates and other black extremist groups in the United States.

Since Castro took over Cuba in 1959, over 400,000 Cubans have left their homeland for refuge in the United States, the flow since December 1965 having been at the rate of over 3,700 a month. This adds to our work in two areas. On one hand, many of the refugees carry on activities to overthrow Castro. These activities have ranged from the bombing of Cuban establishments as well as establishments of countries carrying on trade with Cuba, to sea and air attacks against the Cuban mainland. This continued militancy necessitates our keeping track of Cuban refugee activities and conducting appropriate investigations where there are indications that Federal statutes have been violated.

On the other hand, the possibility of Cuban intelligence agents being infiltrated into this country through the refugee stream is always present and requires continuing investigative attention.

Cuba, of course, as in the case of other Communist bloc countries, relies heavily on its only diplomatic establishment in the United States, the Cuban Mission to the United Nations in New York City, to serve as a legal base of operations for clandestine intelligence gathering activity.

CHINA

The potent threat to our national security posed by Red China still exists. In fact, the blatant, belligerent and illogical statements made by Red China's spokesmen during the past year leave no doubt that the United States is Communist China's No. 1 enemy. This bitterness towards the United States and other Western countries—even the Soviet Union—is a factor in Red China's ambition to equal other major powers economically, militarily and, especially, in scientific endeavors.

This Red Chinese goal has resulted in Chinese Communist intelligence activities in this country, overt as well as covert, to obtain needed material, particularly in the scientific field.

In one clandestine effort in 1967, which we thwarted, a Chinese American attempted to send electronic equipment to Hong Kong by way of Canada. This Chinese American headed an electronic company in the United States and the components involved, which could have been used in aerospace research, missile tracking, and radar, were sent to a Hong Kong businessman, temporarily in Toronto, Canada. Based on information furnished by the FBI, he was arrested by Canadian authorities in Toronto for making a false customs declaration, the electronics components being declared as replacement parts for printing machines. He was convicted and served a 60-day sentence.

We are being confronted with a growing amount of work in being alert for Chinese Americans and others in this country who would assist Red China in supplying needed material or promoting Red Chinese propaganda. For one thing, Red China has been flooding the country with its propaganda and there are over 300,000 Chinese in the United States, some of whom could be susceptible to recruitment either through ethnic ties or hostage situations because of relatives in Communist China.

In addition, up to 20,000 Chinese immigrants can come into the United States each year and this provides a means to send illegal agents into our Nation. There are active Chinese Communist sympathizers in the Western Hemisphere in a position to aid in operations against the United States.

The Chinese Communists do not have a legal base in the United States from which to conduct intelligence operations. In Canada, however, there is an office of the New China News Agency which poses as a legitimate news-gathering organization. Actually, its real function is to serve as a base for Red Chinese propaganda activity.

A growing problem which threatens to place a heavy burden on our investigative resources concerns the approximately 40,000 Hong Kong based Chinese seamen, many actually residing on the China mainland. We are aware of situations where they have served as couriers in intelligence operations. There have also been instances of mutinies on foreign ships by Chinese crews waving the book "Quotations From Chairman Mao Tse-tung."

Of the 40,000-odd crewmen, on any given day three-fourths of them are on vessels throughout the world. Some 27,000 of the total crew complement are members of the Chinese Communist-dominated Hong Kong Seamen's Union. In respect to the United States, there are thousands of entries made by these crewmen into the United States cities each year when their ships dock here. Although it is not necessary for a seaman to desert ship to perform an intelligence assignment, it is noted that there were over 700 desertions by Chinese crewmen in the United States in fiscal year 1967, and this accounted for more than 80 percent of the total desertions by Chinese crewmen throughout the world during that year. It is significant to note that desertions by Chinese crewmen jumped to some 930 during the fiscal year 1968.

SOVIET ESPIONAGE ACTIVITIES

Mr. LIPSCOMB. Mr. Hoover, I believe it would be very helpful if you could discuss with the subcommittee what is occurring in the area of what I am sure are continuing efforts of the Soviet Union to obtain U.S. industrial information, secrets, data and so forth, and how should the U.S. businessmen handle situations where they come in contact with Soviet representatives?

Mr. HOOVER. There has never been any lessening in the Soviet effort to cultivate American businessmen and obtain from them industrial data and trade secrets. Now socially aggressive, the Soviets push themselves upon their targets in the business world with varied gestures of friendship. It is important for all businessmen to recognize that the "friendly" Soviet, buying drinks and dinners and expensive gifts, is a potential threat. I, of course, recognize that there are legitimate business dealings between Soviet-bloc officials and American firms. The FBI is not interested in such dealings. The FBI is interested, on the other hand, in those Soviets who abuse their presence in our country and try to buy, steal or otherwise obtain our secrets. Businessmen suspecting Soviet acquaintances of such activity should immediately advise the FBI.

Mr. LIPSCOMB. How active is the Amtorg Trading Corp., the Soviet trading organization, at this time in establishing or attempting to establish relations with business contacts to carry on its activities, including industrial espionage, in the United States?

Mr. HOOVER. The Amtorg Trading Corp. continues to be used by the Soviet intelligence services as a cover for placing intelligence personnel in the United States. The case of the Soviet, Igor A. Ivanov, is in point. Ivanov, here as an Amtorg employee, was sentenced in 1964 to 20 years' imprisonment for conspiracy to commit espionage. He remains free on $100,000 cash bail, put up by the Soviet Government, while his case is being appealed. Soviet trade representatives here with Amtorg have legitimate cover to travel and meet Americans. They have great freedom for espionage, and, as the Ivanov case illustrates, make use of it against us.

Mr. LIPSCOMB. What about Soviet espionage activities carried on through cultural exchange programs and similar activities in which the Communist Party may be active? How serious is the problem?

Mr. HOOVER. The intelligence agencies of the Soviet Union do, of course, use the cultural exchange programs to infiltrate intelligence personnel into our country. The Soviet diplomat, Valentin Revin, who was expelled from our country in 1966 for his espionage activities, is the best example. He first entered the United States in 1958 as an exchange student and was here 1 year. He came back in 1963 to the Soviet Embassy. The espionage mission which led to his expulsion involved efforts to obtain sensitive information about our space program from an American businessman. There is no doubt Revin was from the beginning, from his student exchange days, here to prepare himself for his intelligence work.

Insofar as the Communist Party is concerned, each member is politically motivated to assist the Soviets in every way. For years I have warned of the danger of the Communist Party. My concern stems from the fact that its members are ideologically oriented, not to the United States, but to the U.S.S.R. The problem remains a very serious one for all of us.

Mr. ICHORD. Mr. Chairman, I yield to the distinguished gentleman from Texas (Mr. ECKHARDT) 5 minutes.

Mr. ECKHARDT. Mr. Chairman, I wish it were possible when dealing with a problem upon the broad aspects of which we can all agree that we could hammer out a piece of legislation that would satisfy both the interests of national security and the right of an individual to due process.

I like to think we have moved in that direction under the able chairmanship of the chairman of this committee.

At the proper time I shall attempt to get the committee to consider favorably an amendment which I believe would recognize these two interests and would bring judicial due process into this entire field. The amendment I have and which I will offer later is very much in line with the questions and the discourse between myself and the gentleman from Missouri. I shall, of course, supply him with a copy of the amendment, as well as supplying the minority side, prior to the time that it is offered.

Mr. ICHORD. Mr. Chairman, if the gentleman will yield, I was going to ask the gentleman to do that since I have not seen a copy of the amendment and it

is very difficult to pass upon the merits of the amendment on the spur of the moment here on the floor.

Mr. ECKHARDT. Surely, I certainly understand that.

My concern is as to page 3 of the bill, where the act of subversion is defined. The language goes something like this and I shall partly quote and partly paraphrase this because it is a long and difficult sentence.

The term "act of subversion" is any act which causes or would tend to cause damage to the services of a facility with the intent to effect any plan which is promoted by one of the subversive organizations.

Now if this test is subjected to careful scrutiny and cross-examination with respect to the accusations against the individual, the test may be adequate. If not, however, a difficult question to decide is whether or not, for instance, an innocent strike with the intent to shut down an aluminum plant, for instance, does in fact effect a purpose which may be joined in by those who are not so innocent. And without an opportunity for cross-examination and without an opportunity for a court to determine the scope of consideration of the facts, it would be quite easy to convict an individual and exclude him from the premises and therefore denying him his job, when his action was wholly innocent but coincided with activity for a wrongful purpose.

I am not here attacking the standard that has been stated here because I think that many shortcomings of a standard can be corrected if due process is afforded and there is a winnowing out through a court's action precisely what the standard means.

But on the other hand, if a department head gets a final determination of whether or not the facts placed in evidence against the individual are considered, and the only place that an individual gets to bring his case up on a review of the appropriateness or inappropriateness of the action is long after the event, then a character is assassinated; and the act is corrected sometime, so far in the future, that the remedy then is wholly inadequate.

What I desire to do is to apply the judicial process within 30 days after the exclusion. I am not saying by this that Federal authorities may not immediately deny access to the sensitive facilities. They may do that. But within 30 days they must afford due process with cross-examination, unless the determinations contained in section 2 of paragraph (b) of, I believe, section 407, those determinations, those exceptions, are approved and defined, and the process is advocated by a court exactly in the same manner that the court would go about the problem in a pretrial procedure.

Mr. ASHBROOK. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, the pending bill is, I am convinced, worthy of the support of those of my colleagues who are fearful that it may interfere with constitutional guarantees.

I reach this conclusion after a careful consideration of the contrary views of others, particularly the distinguished gentleman from Ohio (Mr. STOKES).

It is especially incumbent upon us to study this measure with care. Prior, hastily drafted, legislative efforts to regulate employment in Defense facilities by those dangerous to national security have been overturned by the Supreme Court. The immediate reaction by the press and a large segment of public opinion was that the Supreme Court, predictably, had authorized the employment of Communists in defense plants. Such a characterization of the decision in the Robel case was grossly inaccurate.

Nevertheless, the view is widely held and the reputation of the Court has suffered accordingly.

The Congress, not the Court, was responsible in this case for the erosion of public confidence in the Federal judiciary. A regrettable lack of precision in legislative draftsmanship forced the Court to its holding in Robel.

We must exercise particular care not to repeat the same error today.

Words are not capable of absolute specificity when defining concepts as inherently vague and imprecise as the "national security" and the infinite ways in which it may be jeopardized. But words are our only tools. Under all of the circumstances, I am convinced we have done a constitutionally acceptable job, given the tools available.

The general format of the legislation is that access to specific sensitive areas of designated defense facilities shall be made available to individuals only if "clearly consistent with the national defense interest." Broad investigatory power is necessary and has been granted. Reasonable protection to employees and potential employees granting a hearing, procedural safeguards, and to a review of the results of that hearing are accorded. Any limitation on the full disclosure of information and the production of witnesses reflects the reality that the very issue involved is the security of the Nation.

The problems of an improper delegation of legislative authority to the Secretary of Defense, which troubles Mr. STOKES, has been handled realistically in my view. Clearly, the intent of the law is to protect defense facilities. It is not possible to enumerate all such facilities. Section 404 sets a commonsense standard which should pass constitutional muster.

Also, the broad language, "clearly consistent with the national defense interests," troubles some. It is the national defense which we have the constitutional authority and duty to protect. Section 404(a) as supplemented by statutory definitions, is a reasonable legislative effort, in a difficult field, to be specific.

It has been a further source of concern to some that the definition of an "act of subversion" is sufficiently broad to encompass certain lawful activities, such as a peaceful demonstration which results in "damage to production" of a defense facility engaged in with a certain requisite intent.

It must be remembered that this bill does not prohibit any such lawful conduct, unfortunately designated an "act of subversion." It merely declares that the national interest requires that highly essential defense production be protected against such activities even though lawful, and the Secretary of Defense may consider such fact in designating defense facilities and determining access thereto.

Finally, Mr. Chairman, it must be admitted that this bill or any other may be unconstitutionally applied by overzealous administrators. There is no way for a legislative body to protect its acts from maladministration so long as any discretion is granted under the act. It is to correct such abuses that the courts exist, and we should not assume their inability or unwillingness to act promptly in appropriate cases.

Although I intend to support constructive, perfecting amendments, under all the circumstances, Mr. Chairman, I support the bill as reasonable effort to protect defense facilities and urge its passage.

Mr. ICHORD. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER of North Carolina. Mr. Chairman, I rise in support of the bill, and I address my remarks primarily to my good civil libertarian friends and to disturbed liberals in the House.

Security is like liberty in that many are the crimes that have been committed in its name. Because there have been so many abuses in security programs in the past, there is great resistance on the part of civil libertarians and liberals to enact legislation in the national security field. Yet there is no group that ought to be more concerned or which benefits more from the ground rules of our Bill of Rights under which anyone can freely criticize those defects in our society—and that is the liberals' business—there is no group who ought to be more concerned therefore that these ground rules are not abused.

In America we give our enemies a head start, and properly so, but we do not want to give away the race to them. In the last political campaign, it seems to me the liberals and civil libertarians allowed the issue of crime to be taken away from them by the conservatives. So I think the issue of national security would be taken away from them, and by those who would not always be so tender about the rights of individuals as the civil libertarians would like.

Why should the devil be given all the best tunes? Why should the civil libertarians not be as heavily involved in the important issues of crime and of national security as in many other aspects of our life?

Some of my civil libertarian friends have muttered darkly about the shades of Joe McCarthy returning if this bill is passed. I think the civil libertarians ought to be especially sensitive to the source of McCarthy's support, which was, it seems to me, the public concern about the apparent indifference to national security on the part of the administration that was then in power.

I am not arguing that liberals should not be quick to attack abuses in security

programs. This is a sensitive area, and abuses are very easy. But I am arguing that they should recognize that such programs are necessary even if they regard it as an unpleasant necessity, and that they ought to be taking the lead in framing the programs and in administering the programs. I welcome the contribution from the gentleman from Texas (Mr. ECKHARDT) along this line.

Sidney Hook stated:

A liberal attitude is necessary for the reasonable administration of a security program. Just as only those who love children can be trusted to discipline them without doing psychological harm, so only those who love freedom can be trusted to devise appropriate safeguards without throttling independence or smothering all but the mediocre under blankets of regulations.

Mr. FRASER. Mr. Chairman, will the gentleman yield for a question?

Mr. PREYER of North Carolina. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, I want to say at the outset I am impressed with both the skill and the ability which the gentleman brings to the subject matter and the kind of statement he has made so far.

I wonder, however, what the gentleman's response is to the statements which appear in the committee report in the submissions by the Department of Justice and the Department of Defense, which suggest that neither the Department of Defense nor the Department of Justice found any compelling need for this legislation?

They said that the present program was working satisfactorily. Why is it we cannot let matters stand that way? Why can we not let their satisfactory program go on and avoid some of the complications which some of us feel this legislation does bring to the problem?

Mr. PREYER of North Carolina. That is a good question. It does not apply, of course, to the vessel and screening program, for one thing.

The Departments expressed the general belief that they were doing a good job in carrying out the program which they have been conducting for some 9 years. Really, this bill just authorizes them officially to continue to do what they have already done.

They, naturally, think they are doing a good job, but there are some specific things which are gained by this legislation. There are gains which apply to the individual as well as to the agency.

For example, the agencies, the Department of Defense and the Department of Transportation, at the moment do not have the authority to compel the production of evidence. They cannot subpena witnesses. This is a drawback to the person involved as much as it is to the agency.

So there are some practical effects of that kind.

Mr. FRASER. But is it not true they did not ask for this legislation?

Mr. PREYER of North Carolina. I am not sure whether they asked for it or not. I would have to let the chairman respond to that question.

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

Mr. PREYER of North Carolina. I yield to the gentleman from Missouri.

Mr. ICHORD. I would refer the gentleman to the position of the Defense Department. The Defense Department did favor the industrial defense program that is aimed at barring subversives from sensitive positions in defense facilities.

It is true, as the gentleman stated, that the Department of Justice said, as to the industrial security program, there was a program being operated under Executive Order 10865. The gentleman from North Carolina has stated that this has deficiencies.

If the gentleman is interested in protecting the rights of the individual, he would be interested in giving the individual compulsory subpena process in order to protect his rights.

Actually, I believe we lean more toward protecting the rights of the individual by laying down this legislative base rather than the security interests of the Nation. Would not the gentleman from North Carolina agree with that generalization?

Mr. PREYER of North Carolina. I believe that would be accurate.

Mr. FRASER. I thank the gentleman. I will not take more time now. I have some other questions we can pursue later.

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

Mr. PREYER of North Carolina. I yield to the gentleman from Michigan.

Mr. NEDZI. I thank the gentleman.

Pursuing the question raised by my colleague from Minnesota, could the gentleman clarify for the Committee just exactly what this bill does do, except for the hearing requirements the chairman referred to, which is not presently allowed, or what it does forbid which is not presently forbidden? How does it change existing law and the President's authority?

Mr. PREYER of North Carolina. It reinstates one program which has been defunct, the vessels and ports program.

Mr. NEDZI. Is not the President authorized to institute this program without this legislation?

Mr. PREYER of North Carolina. There is a question whether he is or not.

Mr. NEDZI. Has the Justice Department made any report on this?

Mr. PREYER of North Carolina. On the question of whether the President has authority?

Mr. NEDZI. As to whether the President has authority to do this.

Mr. PREYER of North Carolina. I believe their report on this was that there is a question whether he would be able to or not. The President feels he has that authority. The gentleman is correct in that particular.

Mr. ICHORD. Mr. Chairman, will the gentleman yield for a clarification?

Mr. PREYER of North Carolina. I yield to the gentleman from Missouri.

Mr. ICHORD. I would point out to the gentleman from Michigan that there is presently being operated a security program under Executive Order 10865.

Now the Department of Justice believes that the Executive has the inherent authority without legislation to operate this program. Personally I do not agree entirely with the Department of Justice. I think the case of Green against McElroy, which was decided in the year 1959, did cast doubts upon the validity of important aspects of the industrial security program, with regard to access to classified information, because a legislative base has not been laid down. However, the Remenyi case could have reached the Supreme Court where that issue would have been directly raised, but the Supreme Court just the other day denied certiorari.

Mr. NEDZI. What change does the gentleman see happening if this bill becomes law?

Mr. ICHORD. There are many changes. First of all, there is no industrial defense program being operated at all at the present time.

Mr. NEDZI. This bill does not mandate one.

Mr. ICHORD. No. The bill does not mandate one, but it authorizes the President to set it up.

Mr. NEDZI. The gentleman agreed that the Department did not think it was necessary.

Mr. ICHORD. No, the Department does not agree. The gentleman is in error on that. The gentleman has in mind the statement of the Department of Justice to the effect that it did not consider there was a compelling need for the industrial security program as one was being operated without legislation under what is considered the inherent power of the President.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. ICHORD. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. PREYER of North Carolina. This bill, then, and the whole screening program deals with a sensitive area, which is, how do we distinguish between dissenters or heretics, whose criticism of society is essential to the health of it, and the secret enemies of democracy, the conspirators who are playing outside the rules of the game and who are not simply dissenters or heretics.

There is no such thing as absolute security or absolute safety any more than there is such a thing as absolute safety on our highways. The man who drives too slowly endangers the liberty of others. So here the problem is not absolute security but the question of achieving more and better security in meeting specific hazards in the particular area of risk and uncertainty and meeting them in such a way that we do not lose more by the methods we use than we gain by the disasters we prevent.

It is a question of striking a balance between two legitimate demands—the demands of national security and freedom of the individual.

Does this bill do that? Let me take a specific example. The fear—and it is a proper one—of all civil libertarians is that such a bill opens up the possibility of a witch hunt. That it will catch unpopular people and ideas in its net along with subversives.

Now, how does this bill handle this problem? Take the specific example of whether it would bar a worker employed

in a defense industry because he took part in peaceful picketing of a chemical company in protest of its manufacture of napalm. This example was used in the dissent. As I understand the bill, the answer to that question is, "No, it would not." Only picketing which caused intentional damage or injury to a defense facility and which was done with subversive intent can be considered in granting clearance. When I say "considered" it is not automatic that clearance would be denied on the basis of that. It is one of the factors you consider. The subversive intent with which the picketing must be done is spelled out in four ways in the bill. It must be done with the intent, first, to impair national defense; second, advantage a foreign power; third, prejudice the security of the United States against its enemies; or fourth——

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

Mr. ASHBROOK. Mr. Chairman, I yield the gentleman from North Carolina 5 additional minutes.

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

Mr. PREYER of North Carolina. Yes, sir.

Mr. ECKHARDT. I am very interested in what the gentleman was saying at the end of his discussion and I am glad that additional time has been allocated to him because I think this subject should be gone into very thoroughly.

As I read section 5 on page 3 it is directed toward someone who desires to effect a plot or plan for a bad purpose; that is, for a subversive purpose. But it would appear to me that the only intent required in order to find a person engaged in subversion is to find an intent to effect a plan. It would seem to me that the case of the strikers at the chemical plant which might effect the shutting down of the plant which existed is in juxtaposition to the intent of those who want to disrupt the Government in its activities at that plant.

What is the gentleman's view with respect to this point?

Mr. PREYER of North Carolina. I think I see the gentleman's point and I think it is a very good one. It is certainly not the intent of this act that the innocent picketer's action would be tainted by association with a subversive picketer or by joint union action which would make it appear that he would meet the requirement of subversive intent. I think the gentleman's point is well taken and I will state to the gentleman that I will follow with interest his amendment although I have not had an opportunity to read it.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, I tend to agree with the gentleman. I think the question urged here is perhaps a forced one. The key is that if intent is to be considered with precision it may be necessary to get a court to determine it and it may be necessary to bring out certain documents at some place where the facts are being developed in order to establish that fact in its initial phases.

Mr. PREYER of North Carolina. I think we are after the same point. Perhaps, we are approaching it from a different angle.

Let me inquire briefly into one other example. Can you inquire into a person's reading habits? Can we inquire into his beliefs concerning civil rights, for example, under this bill?

Well, section 405(c) does use some broad language. It says that the President may set up a screening program which authorizes inquiry into "behavior, associations, facts and conditions, past or present." Those words sound very sweeping indeed, but these inquiries can only be made under criteria established by the President and the inquiries must be relevant to the criteria. Now, "relevant" is a word which carries a legal meaning. For example, let us say that the criteria established by the President for access to vessels, for example, is "advocacy of the overthrow of the Government by unconstitutional means"—that happens to be one of the criteria under the old Magnuson law. Now, it is not "relevant" to that determination to ask a person about his reading habits or whether he is a member of the NAACP or something of that sort under that criteria. So, the requirement of relevance is a restricting provision and wide-ranging inquiries are not authorized. If there is abuse there is recourse to the courts. It is better that the courts determine the limitations of the program on a case by case basis rather than trying to set out elaborate detail or inflexible rules in the legislation. This is the pattern which this bill follows.

Mr. ICHORD. Mr. Chairman, at that point, if the gentleman will yield, I wish to take this opportunity to compliment the gentleman in the well for the excellent statement he is making.

He is one of the outstanding constitutional lawyers of this House, a former member of the Federal district court, and I personally, as chairman of the committee, want to thank the gentleman for the many hours of work he has done in sitting down with the committee and in going over this legislation, word by word, and section by section. I not only wish to compliment the gentleman for the statement he is making, but especially for the work that he has done, and the contributions that he has made.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. ICHORD. I yield 1 additional minute to the gentleman from North Carolina (Mr. PREYER).

Mr. Chairman, I would also point out in the discussion the gentleman from North Carolina has just carried on in regard to inquiry into political ideas and political beliefs, that I agree with the gentleman that this is not permitted by the terms of the bill. I would also refer to the members of the committee to page 23 of the report where it is made clear that political ideas and political philosophies are not a legitimate area of inquiry. I will read from page 3, beginning in line 8:

> It does not relate to the generally fruitless, unreliable, and objectionable inquiry into what he "believes." Inferences are to be drawn only from what he actually does and says, although, of course, he may, under appropriate circumstances, be accorded the privilege of himself volunteering such information as may elucidate conduct otherwise objectively manifested.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. ICHORD. Mr. Chairman, I yield 1 additional minute to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER of North Carolina. Mr. Chairman, since the gentleman raised a question about the constitutionality, I wish to say that I am not an expert in this field, and perhaps the Washington Post is right, and that the bill is "grotesque and dangerous," to quote them. Maybe I do not understand it, but applying commonsense to it, it seems to me reasonable, and it seems to me constitutional.

Difficult constitutional questions are going to arise under this bill; they will under any security program, but they will arise not from the bill itself but from the way in which the program is administered.

Now, the delegation of authority in this bill is broad enough so that regulations can be drawn under it that are unconstitutional, and I do not see any way to avoid that, and we have the courts as a recourse against this. But I believe that on the whole the bill strikes a fair balance between the rights of the individual and the national security. We should not let examples of stupidity and folly in the administration of these programs in the past prevent us from taking steps to thwart the systematic efforts by our enemies to undermine our free institutions.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. ASHBROOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are many points that can and probably should be made in support of this bill. I will direct myself to such of those that relate to points which have been raised by some of the opponents of this bill. In particular, the theory has been presented that since the executive branch of the Government does indeed have some program in effect at the present time, we need therefore not look legislatively into this area, it is already taken care of.

I would say, first of all, this is a spurious argument. Second, it is not valid constitutionally. If you research the cases relating to the executive usurpation of authority that is delegated to the legislative you will find a rather steady stream of cases which indicate the Chief Executive in fact does not have the authority to act in areas where the Congress specifically is mandated the authority under the Constitution.

Take just one case, which is not so old. In 1948, by a 6-to-3 decision, the Supreme Court clearly indicated in very definite language that the Chief Executive did not have the authority to seize the steel mills in absence of specific right given to the Executive by the Congress.

Let me read to you just one statement that equally well applies to the defense facilities bill, and I quote from the 6-to-3 decision:

> Authority to issue such an order in the circumstances of the case was not deductible from the aggregate of the President's executive powers under Article II of the Constitution; nor was the order maintainable as an exercise of the President's powers as Commander in Chief of the Armed Forces. The power sought to be exercised was the lawmaking power, which the Constitution vests in the Congress alone.

It is very clear that the power we are talking about here is one that very clearly vests in the Congress alone. The fact that the President's Executive order has not been challenged does not necessarily mean that at the present time the Supreme Court would uphold it.

The pivotal proposition in the famous Youngstown steel case as a matter of fact was that inasmuch as the Congress could have ordered the seizure of the steel mills, and did not, the President had no power to do so without prior congressional authorization.

I think exactly the same situation is maintainable here—inasmuch as the Congress can act but has not—that this does not give the President, even as the Supreme Court indicated, under his broad powers as Commander in Chief—does not necessarily give the Chief Executive the authority or the right to act.

So I think to start out with that assumption simply because the Chief Executive has under Executive order set out some effort in this area that we should not therefore move in, is in the first place dead wrong, in my opinion, because the Constitution clearly gives to this branch of the Government, the Congress, the authority to act.

So I think quite opposite of the point that was raised by the gentleman from Minnesota (Mr. FRASER)—quite opposite of this fact—we not only are constitutionally mandated to act but in effect, as legislators dealing with the field of legislation, we feel we should act.

Again looking at the history that has been built up over the last 10 or 15 or 20 years in an effort to honestly try to resolve the difficulties in this area, I would take you back, to an act of the U.S. Congress—the 84th Congress, under Public Law 304, recognizing this problem and setting up a Commission on Government Security.

The Commission on Government Security was established by the Congress consistent with the legislative power to which I have just referred and not by the executive—but by the legislative.

The Commission on Government Security was established by Congress in 1955 to study the many laws, Executive orders, regulations, and so forth, intended for the protection of national security. In addition, the Commission was mandated to establish fair, uniform, effective and realistic measures to safeguard both the national security and the rights of individuals. Headed by Mr. Loyd Wright, former president of the American Bar Association, with Senator JOHN STENNIS as Vice Chairman, the Commission included my colleague, the gentleman from Ohio (Mr. MCCULLOCH), Senator NORRIS COTTON, and the late Chairman Francis Walter. Broken down into four subcommittees, the Commission began its operation in January 1956, and submitted its report to the President and Congress on June 21, 1957, one and a half years later.

A Citizens Advisory Committee was established as the work of the Commission progressed to obtain the views of private citizens who were experienced in many of the problems facing the Commission. On the committee was our colleague, Congressman LOUIS WYMAN, then president of the National Association of Attorneys General, Dr. Lee DuBridge, now with the present administration, Irving Ferman, of the American Civil Liberties Union, W. C. Daniel, commander of the American Legion, Cmdr. Cooper T. Holt of the VFW, to name but a few.

In general, the membership of the committee was drawn from all parts of the Nation, and comprised prominent educators, industrialists, clergymen, scientists, newspapermen, State officials, attorneys, jurists, and representatives from both labor and management. Some 1,500 letters were written by the Commission to individuals and to labor, industrials, and other organizations having special interest in the Federal security programs soliciting information, advice, and suggestions.

I think it is fair to say that the Commission on Government Security was the most comprehensive, thorough, and widely based effort in recent times to review the many facets of Federal security matters.

The House Committee on Internal Security had the benefit of hearing Mr. Loyd Wright, the Chairman of the Commission on Government Security, who testified on this legislation, the bill now under consideration. Mr. Wright in his testimony offered certain suggestions and stated:

> I am fully in accord with the purposes set forth in the bill. I believe it is constitutional as proposed.

In addition to Mr. Wright, Mr. Stanley J. Tracy, an Assistant Director of the FBI for 13 years prior to his retirement in 1954 and later an associate counsel of the Commission on Government Security, also testified before the committee. Mr. Tracy stated:

> The Commission on Government Security staff went not only into the security programs themselves, but into the history and the need for those programs. The Commission determined that we did desperately need legislation in this field.

Needless to say, the need for legislation still exists today, for although legislation was introduced in the ensuing years after the Commission's report, none was ever enacted.

For those who might feel that Congress lacks the constitutional basis to initiate an industrial security program, the Commission on Government Security provided ample legal proof to the contrary. I insert in the RECORD at this point that section of the Commission's report which deals with the constitutional basis of the program:

CONSTITUTIONAL BASIS OF THE PROGRAM

Aside from questions as to the statutory basis of the industrial security program, serious questions have been raised as to whether Congress has the constitutional authority to enact legislation authorizing an industrial security program, particularly where such a program provides for the exclusion or removal of designated employees of private defense facilities from those jobs in which they have access to classified information or material. Such questions do not, however, attack the constitutionality of the four statutes and the Executive order discussed above as supplying the legal basis of the industrial security program, for, as was emphasized above, these statutes and the Executive order do not deal directly with the subject of an industrial security program nor do they expressly authorize such a program.

Legislation expressly authorizing an industrial security program similar to that now in operation by the Department of Defense could be supported constitutionally as an exercise of Congress' power to: Declare war, raise and support armies, and provide and maintain a Navy—article I, section 8, clauses 11, 12, and 13; dispose of and make all needful Rules and Regulations respecting the Property belonging to the United States—article IV, section 3, clause 2; and the "inherent right of self-preservation."

The power of the Federal Government to wage war and provide for the Army and Navy—the "war powers"—is very broad in scope and authorizes Congress to enact all measures which are necessary and proper for carrying into execution such powers. As stated in *Hirabayashi* v. *United States*, 320 U.S. 81, 93 (1943):

"The war power of the National Government is the 'power to wage war successfully.' . . . It extends to every matter and activity so related to war as substantially to affect its conduct and progress. . . . It embraces every phase of the national defense, including the protection of war *materials* . . . from injury and from the dangers which attend . . . war." [Emphasis added.]

The war powers have been cited by the courts as the constitutional basis for a great variety of legislation covering many subjects including:

Legislation authorizing the exclusion (removal) from designated areas of persons of Japanese descent, although there was no allegation that all such persons or any specific ones were disloyal to the United States. (*Korematsu* v. *United States*, 323 U.S. 214 (1944)); the Magnuson Act, which is the basis of the Coast Guard port security program. (*U.S.* v. *Gray*, 207 F. 2d 237 (1953) (C.A. 9th Cir.).) (*Parker* v. *Lester*, 227 F. 2d 708 (1955) (C.A., 9th Cir.)); legislation authorizing the construction of Wilson Dam. *Ashwander* v. *Tennessee Valley Authority*, 297 U.S. 288 (1936)); legislation requiring the recovery of excess war profits. (*Lichter* v. *United States*, 334 U.S. 742 (1948)); legislation authorizing Federal housing for persons engaged in national defense activities (*United States* v. *City of Chester et al;* 144 F. 2d 415 (1944) (C. A., 3d Cir.)); rent control legislation. (*Woods* v. *Miller Co.*, 333 U.S. 138 (1948).)

In *Von Knorr* v. *Miles*, 60 F. Supp. 962 (1945) (D. C. Mass.), the court upheld on the basis of the war powers a statute and Executive order pursuant to which the commanding general of the First Service Command had directed a Government contractor to remove from employment on and access to work under War and Navy Department contracts the plaintiff Von Knorr, about whom derogatory information had been received by the Government. The court stated, in language very appropriate to the present industrial security program:

"Cities Service Oil Co. was operating what was in essence a private arsenal of our democracy. The supplies it was preparing were de-

signed for the use of the Armed Forces of the United States. The processes which it was applying may have involved Government secrets, and, at the least, the data on volume and type of production, on transportation, and on like matters were confidential. Interference with such production processes, or disclosure of such confidential data, were dangers against which Congress was empowered to provide. And an obvious and logical provision was an order excluding from areas where there were such processes and data any person or persons in whom the Government lacked confidence.

"Such an exclusion order is as plainly within the war power as the more drastic orders excluding persons from the public streets at nighttime, sustained in *Hirabayashi's* case, from an entire city, sustained in *Korematsu's* case, or from the Pacific Coast States, sustained in *Endo's* case, 323 U.S. p. 302, lines 16–20, 65 S. Ct. 208. All those orders interfered with employment, and on a much wider scale than here where plaintiff remains free to work for his former employer in jobs having no connection with war contracts and free to work for other employers in Massachusetts or elsewhere. It is true that the orders in those three Supreme Court cases were orders directed to an entire group on the basis of a military commander's doubts as to their loyalty, whereas here the order is directed to a particular person. But if that be a distinction, it would seem that the order here was more not less justifiable because it rested on views as to an individual's loyalty rather than a group's loyalty.

"Moreover, quite apart from the precedents supplied by the cases of *Hirabayashi, Korematsu,* and *Endo,* it is clear on broad grounds of constitutional principle that an order excluding any person from a defense plant in war time is valid.

"Two interests are in competition and must be considered: the Government's concern to prevent both sabotage and disclosure to the enemy of secret processes, statistics, and information; and the private individual's concern to go where he pleases and engage in such work as is offered him.

"It is not mere rhetoric to say that the Government's interest in avoiding sabotage and espionage in wartime is one of its most vital concerns. National survival is quite literally at stake. Every schoolboy knows that the experience of this Nation during the last war and of continental countries during this war shows how easily a country's military efforts may be hampered by the admission to war plants of persons who on their face appeared unobjectionable. Saboteurs do not parade with foreign credentials of professional competence. And arsenals are not guarded if watchmen exclude only those in whose satchels they have already found bombs. To avoid grave risks, a prudent government may rationally favor a policy denying access to war plants not only by a person proved dangerous but also by any person in whom the Government lacks absolute confidence." (Pp. 969–70.)

This case would be on all fours with the present industrial security program except for the fact that it arose during wartime and the Court's decision refers to that fact in several places. The reasoning of this decision, however, is probably as applicable to an industrial security program in time of national emergency or international crisis as it is in time of war.

Although some of the cases cited above were limited factually and by the decision to wartime situations, there is reason to believe that only in the *Korematsu* case is the decision applicable exclusively to an actual war situation. In any case, the courts have generally held that the war powers are not limited to wartime but may be utilized in preparing for war or in dealing with problems created by war. See *Ashwander* v. *Tennessee Valley Authority et al., supra,* in which the Court sustained the power of the Government to construct Wilson Dam as an exercise by Congress of its war powers, that is, for the purposes of national defense, although construction was not begun until 1917 and was completed in 1926. The Court stated:

"While the district court found that there is no intention to use the nitrate plants or the hydroelectric units installed at Wilson Dam for the production of war materials in time of peace, 'the maintenance of said properties in operating condition and the assurance of an abundant supply of electric energy in the event of war, constitute national defense assets.' This finding has ample support." (Pp. 327–328.) (See also *U.S.* v. *City of Chester et al., supra,* and *U.S.* v. *City of Philadelphia,* 56 F. Supp. 862 (1944) (E.D.Pa.).)

There would seem to be little doubt, therefore, but that a statute establishing an industrial security program would be held to be a necessary and proper execution of the war powers of Congress, particularly during the present critical international situation and the resultant national emergency.

A second source of congressional power in this field is article IV, section 3, clause 2, which empowers Congress to make all needful rules and regulations respecting the property belonging to the United States. The industrial security program has as its subject matter the protection of property belonging to the United States (classified information) or being produced for sale to the United States (defense production). A statute enacted by Congress to set up an industrial security program would certainly constitute a rule or regulation respecting property belonging to the United States.

In *Von Knorr* v. *Miles, supra,* the court said:

"In considering the constitutional authority of Congress in time of war to exclude a person from a plant having a Government contract for war supplies, it would perhaps be possible under some circumstances to invoke either the power of Congress to 'make all needful Rules and Regulations respecting the * * * Property * * * of the United States,' U.S. Constitution, article IV, section 3, clause 2. . . . However, the former alternative is unavailable in the case at bar since there has been no showing as to what contracts there were between Cities Service Oil Co. and the Government, as to when the Government had acquired or would acquire title to the supplies being furnished, as to the extent to which the Government had any property on the premises of the company, or as to the employment contracts of the company. I, therefore, leave unresolved the question whether the order of August 13, 1943, can be supported by the power of Congress under article IV, section 3, clause 2."

It should be noted that the present industrial security program affects only those private companies which do have a procurement contract with the United States and then only when Government classified information (property) is or will be furnished the contractor.

The opinion in the case of *Ashwander* v. *Tennessee Valley Authority, supra,* in which the Court relied upon article IV, section 3, clause 2, to support the constitutional authority of Congress to provide for the disposal of electric energy generated at Wilson Dam, referring to Story on the Constitution, the Court said:

"The grant was made in broad terms, and the power of regulation and disposition was not confined to territory, but extended to 'other property belonging to the United States,' so that the power may be applied, as Story says, 'to the due regulation of all other personal and real property rightfully belonging to the United States.' And so, he adds, 'it has been constantly understood and acted upon.' " (P. 331.)

The power of Congress to enact legislation authorizing an industrial security program may also be found in an extra constitutional source, namely, *the "inherent right of self-preservation"* which exists among all sovereign powers, i.e., the protection of the national security from internal revolt or foreign domination. The industrial security program has as its objective the preservation and protection of classified defense information so as to prevent sympathizers or agents of foreign governments from obtaining such information and disclosing or transmitting the same to a foreign entity. Such a program is clearly designed to and is necessary in order to protect the national security from internal revolt or foreign domination.

The court stated in *Communist Party of the United States* v. *Subversive Activities Control Board,* 223 F. 2d 531 (1954) (C.A.D.C.):

"Antipathy to domination or control by a foreign government, or even to interference on the part of a foreign government, is a basic policy in this nation. . . .

"Self-preservation is a high prerogative of any sovereignty. . . . It seems to us that, however high in priority the right of self-preservation is among the prerogatives of sovereign powers in general, it is peculiarly so in respect to the Federal Government presently established in this country. As we conceive the matter, the government established by our Constitution is an instrument for service, particularly for the protection of the people whose servant it is; it is a working tool, the value of which lies in its usefulness. Since it was created by the people for the security of the people, especially against foreign encroachment, it has supreme duties to protect its own existence and insure that unidentified efforts on behalf of foreign agencies devoted to its disestablishment do not occur." (P. 543.)

In this connection, see also *Dunne et al.* v. *United States,* 138 F. 2d 137 (1943) (C. A., 8th Cir.), where the court declared:

"Appellants state that 'This statute must seek its validity and force in the vague and undefined "right of self-preservation" '. No such extremity exists. The statute is grounded upon specific constitutional grants of power. The preamble, setting forth the purposes of the Constitution, includes to 'insure domestic Tranquility' and 'to provide for the common defence,' as well as to 'secure the Blessings of Liberty.' Article 1, section 8, clause 1, specifically grants to Congress the power to 'provide for the common Defence.' Clause 18 grants the power 'To make All Laws which shall be necessary and proper for carrying into Execution the foregoing Powers.' Article IV, section 4, is 'The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion' and, upon application, 'against domestic Violence.' Thus, the Constitution expresses clearly the thoughts that the life of the Nation and of the States and the Liberties and welfare of their citizens are to be preserved and that they are to have the protection of armed forces raised and maintained by the United States with power in Congress to pass all necessary and proper laws to raise, maintain and govern such forces." (P. 140.)

"Congressional enactments having the purposes of raising or *maintaining* armed forces have high standing because of their importance." (P. 141.) [Emphasis added.]

This language would seem appropriate with reference to the industrial security program, which is concerned with the production of defense materials for the use of and by the Armed Forces.

It may be concluded, therefore, that Congress does have the constitutional authority to enact legislation expressly authoriz-

ing an industrial security program for the protection of our national secrets and defense production. Aside from procedural questions under the due-process clause, there is little doubt but that an exclusion or removal program such as is currently in operation under the Department of Defense industrial security program would be considered as a reasonable means of achieving the congressional objective.

A conclusion that Congress has the constitutional authority to authorize an industrial security program does not constitute a determination that all of the means (procedures) utilized in the present industrial security program of the Department of Defense, or of any other such program, are or would be immune from constitutional attack based upon the due process clause. Questions of due process have actually been raised with respect to this program, for in the field of security legislation and regulation such concepts as the right to work and the right of confrontation have run headlong into the concept of national security. This problem was well expressed by the Court in *Dunne* v. *United States, supra,* when it stated:

"At the same time they [congressional enactments having the purpose of raising or maintaining Armed Forces] must not limit the constitutionally protected individual liberties of the citizen to any greater extent than is reasonably necessary and proper to accomplish the important allowable ends of preserving the life of the Government and the States and their orderly conduct."

Needless to say, the need for legislation still exists today and is, in fact, more urgently required than ever before. Let me quote statements from publications of the Students for a Democratic Society—SDS—and the Progressive Labor Party, both radical revolutionary groups which will be mentioned later. The first quotation is from New Left Notes, January 8, 1969, the publication of SDS and concerns the working youth, some of whom in the future will no doubt be working in industrial facilities related to our national defense effort:

We can organize young working people into our class-conscious anti-capitalist movement. . . . Because we see a revolutionary youth movement as an important part of building a full revolutionary working class movement we must shape our own strategy self-consciously now with a view to that youth movement. This means that, in addition to expanding our base to include more young working people, we must insure the class consciousness of our movement now, and we must attack the class nature of the schools we are organizing against.

The next three statements appeared in publications of the Progressive Labor Party which advocates a student-worker alliance, that is, a uniting of students on campuses and workers in industry for revolutionary purposes. Following Marxist teachings, the PLP views the "working class"—proletariat—as the vehicle whereby the revolution will be brought about:

Revolutionaries, while recognizing that there are fierce struggles among rulers, must be clear on the unity of these wolves against the workers. We must . . . unite the workers and all those who can be united under working class leadership to smash the bosses' state and to build a workers' dictatorship that will once and for all shatter and destroy each and every one of these interest groups and put their stolen property back in the hands of the people. (Progressive Labor, Feb. 1970, p. 33.)

For our people to go onto the offensive and fulfill the aspirations of millions of U.S. workers, black and white, students and intellectuals and other sections of the people whose interests run counter to U.S. imperialism's aims, the involvement of U.S. workers is essential; to secure a revolutionary base and to successfully wage revolutionary struggle to defeat U.S. imperialism means that U.S. workers must participate actively and lead in the struggle. (Progressive Labor, July-Aug. 1967, p. 1.)

The boss class will oppress the working class until workers make a revolution and smash the bosses' state. When the working class rules, there can be real democracy *for the workers,* and a *dictatorship over* the bosses. We call this the Dictatorship of the Proletariat. That is our goal. [Emphasis in original.] (Challenge, Jan. 1970, p. 15.)

How would you like workers with motivating principles such as the above laboring in defense-related facilities and especially in sensitive areas? Nor is this mere rhetoric when one reviews the havoc created by SDS and PLP on campuses throughout the country in the recent past. The preceding remarks of Congressman SCHERLE amply demonstrate the wild and destructive actions of extremist groups in the past several years. Suffice it is to say that these two factions of the New Left movement are, in the words of FBI Director Hoover, militant, nihilistic, and anarchistic.

In the 1969 Appropriations Committee testimony of Mr. Hoover, to which Congressman SCHERLE referred to previously, there are mentioned a number of other organizations which are inimical to the American system. These included the Communist Party, U.S.A., and other Communist splinter groups such as the Socialist Workers Party and its youth arm, the Young Socialist Alliance; the Progressive Labor Party mentioned above; and the Workers World Party.

Other groups listed which seek to subvert the American way of life in one way or another include the 14 major Klan-type organizations, the American Nazi Party, the National States Rights Party, and the Minutemen. Extremist militant black nationalist groups include the Student Nonviolent Coordinating Committee, the Black Panther Party, the Republic of New Africa, the Nation of Islam, and the Revolutionary Action Movement.

When one reviews the principles and activities of the above-mentioned groups, the urgent need for a security system which cannot be altered at the whim of an incoming President is readily apparent. With such groups now operating in the Nation it is imperative that the physical security of our industrial defense facilities be adequate along with a workable personnel security screening program to determine eligibility for access to positions within which are determined to be sensitive.

I cannot believe that any Member of this body could honestly say that people who advocate the views expressed above or belong to the organizations listed herein should be in sensitive positions in our Government at the present time. I cannot help but raise a few questions, and maybe we could turn the tables around, and let some of the opponents of our bill answer those questions. I would raise the following questions:

Would the opponents maintain that Communists should be entitled to employment in defense facilities, in ports, or aboard merchant ships, that they should have a right to access to secret information?

I doubt this.

Should a man who had advocated revolution by force or violence be entitled to employment in Defense facilities or have access to secret information?

I doubt that anybody would advocate that.

If this is the case, then how are we going to exclude such persons without a Federal personnel screening program? This was the exact point to which the original Commission on Government Security addressed itself. It indicated that we do need such an apparatus as we are setting up today. Would our opponents deny that the Federal Government has the prerogative—indeed, the obligation to its citizens—to enact measures by which it can assure the continuity of its existence as a viable society in periods of emergency?

I would presume that there would be no one who would expect the Congress or who would assert that the Congress was without authority to enact legislation to provide for the common defense of our land. This is basically what we are endeavoring to do in a most difficult constitutional area, sensitive area. I think what we have done is to set out the necessary standards. It is not as broad as many would like. I think, if anything, it has been restrictive. I happen to believe that we need this legislation.

I can well understand the concern of those who are vitally interested in the rights of individuals, but I think, viewed from every angle, the legislation that is sent before the Congress today does take into consideration the transcendent value of national security, at the same time recognizing the rights of individuals.

Mr. ICHORD. Mr. Chairman, I yield 7 minutes to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, our colleague, the gentleman from Ohio (Mr. STOKES), who is a member of the committee, had expected to be present today and to take part in this debate. He was the only member of the committee to file a dissent, which is found in the committee report. The reason our colleague cannot be with us today is that he had a longstanding commitment in which he and his brother, the mayor of Cleveland, Carl B. Stokes, were to be honored today by the Cleveland Marshall Law School as the outstanding alumni of 1970.

Mr. Chairman, this is the first time in the history of that school that a Negro has been accorded that honor and it is the first time two brothers have been honored in that way. It is for that reason our colleague, the gentleman from Ohio (Mr. STOKES) felt he should be present in connection with the honor which is being accorded to him and to his brother.

Mr. Chairman, I have with me the statement which the gentleman from Ohio would have given had he been present, and I submit it for inclusion in the RECORD.

(Mr. STOKES (at the request of Mr. FRASER) was granted permission to extend his remarks at this point in the RECORD.)

Mr. STOKES. Mr. Chairman, I rise to speak in opposition to H.R. 14864. Prior to discussing this bill, however, I would like to make some initial observations.

For me, it has indeed been a meaningful and educational experience to have served under the chairmanship of the distinguished gentleman from Missouri. During the entire year that I have served on this committee, the chairman has at all times extended to me every courtesy and every consideration.

In addition thereto, I would want it clearly understood by all who are in this Chamber that I also have deep admiration and respect for my colleagues on this committee. At all times, they have been willing to engage with me in meaningful dialog on the issues—and we have been able to do so in an arena of mutual respect and high regard.

Now I fully realize the onus placed upon me as a freshman in this House—and as the lone opponent of my committee's bill. I can only say to you that it is a responsibility which I accept and is based upon nothing other than my own firm conviction that the bill now under consideration is unconstitutional as presently constituted.

Our committee spent 3 days of intensive hearings on this piece of legislation prior to the markup in the subcommittee and in the full committee. At the outset of these hearings, our distinguished chairman set the tone for our inquiry by this very perceptive statement:

> To a considerable degree in this legislation, we are compelled to engage in a balancing process in the consideration of its provisions, that is, a balancing of the national security against the rights of the individual.

Certainly he was correct in this analysis—and this was the vein in which our entire committee approached this legislation. Much searching inquiry was made of each witness before our committee relative to both the legislative history and the constitutionality of the bill before us.

My own inquiries during the hearings were in the nature of ascertaining the necessity for such legislation and secondly the constitutionality of the proposed legislation. Both as a Member of Congress and a member of this committee, I certainly have no quarrel with properly drawn legislation, the purpose of which would be "to keep from sensitive positions in defense facilities those who would use their positions to disrupt the Nation's productive facilities."

After a conscientious study of all of the testimony before our committee and full consideration of the ramifications of this proposed legislation, I cannot in good conscience vote for this bill. Now, I fully realize that this is a decision which each of you must make as individuals.

As a member of this committee, I feel an obligation to this body to bring to your attention those matters which do not square with my notions as to balancing the interests of society against those of the individual.

It is for that reason that I have filed with the committee report my own dissenting view. I tried to base this dissent upon rational and legalistic premises and conclusions supported by judicial decisions. For that reason, I shall not now endeavor to repeat those arguments. Instead I shall, at this time, attempt to highlight matters which I deem important in one's considerations as to whether to vote up or down the legislation now pending before us.

Now, I think you ought to know for instance that at no time during our hearings did we receive any testimony from the Federal Bureau of Investigation relative to the infiltration of saboteurs or those bent upon sabotage or other subversive acts in our defense facilities around the Nation. In fact, we were not provided with any specific information from anyone from any governmental bureau relative to this precise question—which, in my opinion, bears directly upon the question of necessity.

Now, you have been told that the Schneider decision had the effect of eliminating the personnel screening portion of the port security program and leaves the Coast Guard without authority to effectively prevent the presence of those merchant mariners or other persons on board vessels and in waterfront port or harbor facilities whose presence presents a threat to the security of the United States.

The logical question, it seems to me, which you would now pose is, "In the absence of legislation, what security measures are the Coast Guard presently utilizing to screen out those who pose a threat to the security of the United States?"

Mr. Albert E. Green, spokesman for the U.S. Coast Guard, told us that notwithstanding the Schneider decision, the Coast Guard still had what he called "a very limited program." This prompted the chairman to inquire of him as to the nature of the limited screening program. At this point, the following colloquy took place between the chairman and Mr. Green, at page 1200:

> Mr. GREEN. We would screen persons from merchant vessels or from waterfront facilities if we have found that they had committed acts of sabotage or were preparing or attempting to commit acts of sabotage.
>
> The CHAIRMAN. Don't you have to inquire into their background? How does this limited screening program operate?
>
> Mr. GREEN. Well, we make the initial inquiry to determine whether or not they have committed sabotage or other subversive acts or are attempting or preparing to do so, and in that event, under the decision of the Schneider case, we would be permitted to screen these persons off. However, we would not be able to inquire, under the Schneider decision, into their ideas, beliefs, political opinions, or associations or affiliations.
>
> The CHAIRMAN. You mean the only person you could exclude from employment on a merchant marine vessel is one who has committed a prior act of sabotage?
>
> Mr. GREEN. Well, there are several grounds. One who advocates the overthrow or alteration of government by unconstitutional means; commission of or attempt or preparation to commit espionage, sabotage, sedition, or treason; one who is serving the interests of a foreign government to the detriment of the United States; one who has deliberately and without authorization disclosed defense information, and that is it, persons who have committed such acts or who are in the process of attempting or preparing to commit such acts.

Thus it is my contention that the present procedure is obviously working and gives wide latitude to the Coast Guard in screening off undesirable personnel in the absence of this legislation. In addition thereto, the enactment of this bill which would permit inquiry into ideas, beliefs, political opinions, associations or affiliations is the very essence of the wrong complained of in the Schneider decision.

Now, in this connection, if I were you, I think I would want to be informed as to how many people were affected by such a screening program. Mr. Green testified that in the last 10 years, the Coast Guard processed roughly 250,000 applications from merchant mariners for endorsement of their documents. In about 1½ percent of these instances, derogatory information sufficient to cause a study of the background of these individuals in depth has been received. Mr. Green then said that this would give them about 4,000 instances, out of which nine-tenths of these persons have been cleared after review.

He then said this leaves us with some 300 persons against whom we felt that proceedings might be warranted. He then said:

> On the basis of this, we have made further inquiry into their background asking these persons to answer certain questions and interrogatories. About 50 per cent of these 300 persons have responded satisfactorily and they too received clearance.

Thus, from the starting point of 250,000 men, over a 10-year period, we come down to the minuscule amount of 150 men, all of whom were cleared in the absence of the presently proposed legislation.

Now, a witness who provided us with a great deal of insight into this legislation was Mr. J. Walter Yeagley, Assistant Attorney General, Department of Justice, concerned with internal security. The main thrust of the illumination which he provided was that the Department of Defense's industrial security program, which is now conducted under the authority of Executive Order 10865, is operating satisfactorily and that there is no compelling need for the section of this bill relating to statutory authority for the safeguarding of classified information which must be released to industry. This statement on his part was further tempered, however, by his acknowledgment that since this is an area in which the Executive and Congress can act, that the additional authority provided by this bill, while not essential, is appropriate.

It was this testimony which prompted our chairman to query Mr. Yeagley further. At page 1222:

> The CHAIRMAN. In your statement you say that "in view of the satisfactory operation of that program, we cannot suggest there is a compelling need for such legislation. I suppose the basis for that statement is that you believe that the Executive in this situation has inherent authority to protect classified information dealing with the defense of the Nation?

Mr. Yeagley's reply was:

Yes, we do, Chairman Ichord. In our view this is squarely in the middle of an area of inherent authority of the Executive, of the President, similar to his right to hire and fire. He has not only a right, we believe, but an obligation to protect the national defense.

Mr. Yeagley further told us that they were prepared to defend this Executive order and to argue its constitutionality in the courts. It was also Mr. Yeagley who told us that there has been no case directly holding that the Executive does not have this authority even in the absence of congressional action. This, of course, was the foundation for his being able to say that there is no compelling need for this legislation which comprises over one-half of the bill.

Similarly, Mr. Niederlehner, Acting General Counsel for the Department of Defense, filed testimony with the committee, in which he also said:

We would invite attention to the fact that the present industrial security program of the Department of Defense established under the authority of Executive Order 10865, is operating satisfactorily.

This gentleman, in fact, was quite proud of the fact that the Executive order is providing substantial uniformity in the executive branch inasmuch as most of the agencies of the Government use their program. He specifically cited the fact that 11 other departments and agencies use their industrial security program.

Now, referring back for a moment to the testimony of Mr. Liebling of the Department of Defense, it is interesting to note—at page 1263—that the Robel decision did not void their personnel screening program. When the chairman inquired of him, "What do you have left since United States against Robel," he replied, "I don't think it voided the screening program, it voided the criminal provisions of the act."

Pursuant to this reply, then the chairman further inquired, "Are you still conducting a screening program?" To which the witness replied, "For industrial defense, no, we do not. We do this for industrial security, but the court indicated that, for industrial defense, the Congress could provide narrowly drawn legislation."

I think that I should also note for your attention the fact that our hearings do not reflect how much additional manpower or funding will be required to effectuate the provisions of this act.

The Department of Defense advised us that it is reasonable to assume that the Defense facilities program proposed by the bill will require additional resources, both in terms of manpower and funding. They stated that they would need some time to initiate this program and funding would be required in fiscal year 1971.

We do know from the testimony that at the present time there are 3,500 facilities designated as industrial defense facilities. Within this category, there are some 400,000-plus sensitive positions out of some 3 million employees. In fact, under the presently existing Executive order, some 2.3 million people have been cleared for the industrial security program. The enforcement end of this program now has some 900 persons operating nationwide. Thus, the committee did not have before it any projections relative to total manpower needs or costs relative to implementation of the provisions of this bill.

Now, in addition to the points which I have highlighted, both here and in my dissenting view, I call your attention to the fact that during the course of our hearings, over 50 amendments were suggested. At our last subcommittee meeting, over 30 amendments were adopted. This I think gives you some scope of the constitutional problems inherent in this bill.

For all of the reasons which I have set forth, I cannot vote for this bill. I am in complete accord with the statement made by Mr. Yeagley of the Justice Department when he said to our committee:

Mr. YEAGLEY. That has been the effort here, I know, and a great deal of thought, time, and effort has gone into achieving those objectives of not only protecting the governmental interest, the security interest of the government, but of still assuring to the applicant or the employee, as the case may be, or the individual involved, every right that can be accorded him within the constitution and in light of the existing circumstances.

In my opinion, the bill which our committee brings to you today does not, in the final analysis, strike the desirable balance between the needs of national security and the rights of the individual.

Mr. FRASER. Mr. Chairman, speaking for myself, I am impressed with the fact that both the Department of Defense and the Department of Justice said there was really no need for this legislation. I am impressed with the fact that one of the objectives of this legislation is to reinstate a program of screening for security purposes of those who would like to serve as seamen.

It is interesting to note in this regard that, when the Deputy Attorney General appeared before the committee, he made the point in connection with the earlier screening process, which was to some extent impaired by a decision of the U.S. Supreme Court, that the Court had been loath to assume that Congress in its granting of authority to the President to safeguard vessels and waterfront facilities from sabotage and other subversive acts undertook to reach into the first amendment area. Section 2 of the bill, he said, would provide such authority.

In other words, the Deputy Attorney General of the United States in the statement that appears in the committee report says that section 2 of the bill provides authority to reach into the first amendment area of the U.S. Constitution. The first amendment, of course, is one of the most fundamental of all our constitutional rights in its protection of the right to free speech and to free assembly and to petition our Government for the redress of grievances. The Deputy Attorney General is saying that by this bill we are going into these areas which the Constitution sought to carve out as beyond Government encroachment, as dear to the individual who seeks to exercise his full rights of citizenship as an American.

There are problems with this bill that center on constitutional rights. Earlier this afternoon we discussed whether or not somebody who is picketing a defense plant in protest of that plants activities in connection with the production of napalm or production of war materiels might not come within the proscription or under the coverage of section 402 of the bill under the definition of "act of subversion."

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

Mr. FRASER. I am glad to yield to the gentleman from Missouri.

Mr. ICHORD. Is the gentleman serious in that contention that such a picketing might come under the definition of "subversion" as defined on page 3?

Mr. FRASER. If the gentleman will stay with me, perhaps we can engage in a dialog. Perhaps we can pursue this.

Clause (5) of section 402 defines an "act of subversion" as "any act." That clearly would embrace the act of picketing.

Mr. ICHORD. Does the gentleman disagree with that definition of "subversion"?

Mr. FRASER. I want to take these items step by step.

Picketing is an act.

It goes on to say, "which causes or would tend to cause damage or injury to any facility or its production."

Would the gentleman agree that throwing up a picket line to protest the activities of a company might have the effect of impairing the production at the facility?

Mr. ICHORD. I can conceive of the situation. But the gentleman still has not complied with the definition of "subversion" here.

Mr. FRASER. I am taking each element in turn.

Let us suppose that in fact the Communist party or some other group wanted to have the production of that plant impaired. Whether they were active in the group that was picketing, or whether they had formed such a plan independently, let us assume that nevertheless this was one of their intentions.

Under a reading of this measure, where it says, "to effect any plan, policy, recommendation, directive, tactic, or strategy of any Communist," or other similar organization, would not the gentleman agree it might fall within this language?

Mr. ICHORD. I would not. I depart, in our interpretation of subsection 5.

First of all, subsection 5 is not an operative provision. It merely sets a guideline for using subversion as a possible means of disqualification for job employment.

What the gentleman has overlooked is that this requires specific intent. The gentleman has to have a specific intent to impair the national defense, et cetera.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

Mr. ICHORD. Mr. Chairman, I yield the gentleman 2 additional minutes, even

though I am getting dangerously close to the end of my time.

Mr. FRASER. What the gentleman is arguing is that there needs to be an intent to effect a plan. Is that what he is saying?

Mr. ICHORD. Yes, an intent to impair the national defense, an intent to advantage a foreign power, an intent to prejudice the security of the United States against its enemies, an intent to effect the plan, and so forth.

This is a specific intent on the part of the individual who might be indulging in the picketing.

As I stated before, if the gentleman is concerned about inquiries into ideologies or political beliefs, it is made clear by the report that it is not intended.

I want to be perfectly honest with the gentleman from Minnesota. I do not want to deceive him as to what is intended by this bill. Let me set up a hypothetical situation.

I would say that this bill would prohibit the clearance for access to a sensitive position on the part of a member of the Communist Party if he does not sufficiently explain his membership in the party, regardless of whether he is a passive member or an active member. I want that made perfectly clear for the record.

It does not preclude a member of the Communist Party as such, but if he does not explain that relationship certainly it is the intent of the legislation to exclude him from clearance.

Mr. FRASER. The gentleman is saying, perhaps in specific terms, if a person engages in activity which is protected by the first amendment of the Constitution this may have the effect of disqualifying him?

Mr. ICHORD. I am not saying that.

Let me ask the gentleman a question. Let me put a hypothetical question to the gentleman. Does the gentleman believe that a member of the Communist Party should be cleared for access to top secret information in view of the history of the Communist Party in the United States of America?

Mr. FRASER. Mr. Chairman, I would want a little more information, I think.

Mr. ICHORD. That is the same thing I want when I talk to the gentleman.

Mr. FRASER. But let us be clear about this. You are saying the person may have a right to do something within the meaning of the first amendment to the Constitution, and you would find such activity might disqualify him for a sensitive position.

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

Mr. ICHORD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York, the chairman of the Committee on the Judiciary (Mr. CELLER).

Mr. ASHBROOK. Mr. Chairman, I yield the gentleman from New York 2 additional minutes.

The CHAIRMAN. The gentleman from New York (Mr. CELLER) is recognized for 5 minutes.

Mr. ICHORD. Mr. Chairman, would the distinguished gentleman from New York yield to me for a moment?

Mr. CELLER. Yes. Of course I yield.

Mr. ICHORD. I state to the gentleman from New York that I had told the gentleman from New York (Mr. RYAN) I would yield to him for a unanimous-consent request. Would the gentleman from New York yield to him for that purpose?

Mr. CELLER. I certainly yield.

Mr. RYAN. I thank the gentleman for yielding to me.

Mr. Chairman, I oppose this bill on constitutional grounds, which I have explained.

Mr. Chairman, on previous occasions I have said that the Internal Security Committee's predecessor, HUAC, "serves no useful legislative purpose" and that it "flaunts our constitutional principles." H.R. 14864, reported out over the trenchant dissent of our able colleague from Ohio (Mr. STOKES), all too well confirms my earlier assessment.

Virtually every section of H.R. 14864 is objectionable for its infringement upon individual liberties. It ostensibly is aimed, according to its preamble, at instituting "measures for the protection of defense production and of classified information released to industry against acts of subversion." To achieve this end—to which of course, no one, should object—it uses insupportable means. It gives unduly broad powers to the President and the Secretary of Defense and fails to protect individual liberties.

Examination of just a few of the sections of H.R. 14864 will make clear its vices.

Section 404 authorizes the Secretary of Defense to designate "defense facilities." Section 404(e) mandates the Secretary "to designate the positions, places, and areas of employment" in such facilities "which he determines to be sensitive."

Under section 405, the President is authorized to issue regulations and to prescribe procedures governing access to, and employment in "sensitive" places and positions. Authorization for this access and employment will be granted only if "such authorization is clearly consistent with the national defense interest." In other words, some administrator will be required to make an affirmative finding. If history teaches anything, it is that any doubts or questions will be resolved against the prospective employee.

Considering the perversions which protection of our national defense interest supposedly justified in the McCarthy era of the 1950's, such a vague and broad standard is unwise, even dangerous.

This overbreadth of coverage is equally apparent in the bill's definition of "facility," in section 402:

> The term "facility" means any manufacturing, producing, or service establishment, enterprise, or legal entity, any plant, factory, industry, public utility, mine, laboratory, educational institution, railroad, pier, highway, vessel, aircraft, vehicle.

The definition of "act of subversion" in section 402(5) is similarly a catchall:

> The term "act of subversion" means any unauthorized disclosure of classified information, or any act, omission to act, conspiracy, or solicitation to commit any act or omission, which causes or would tend to cause damage or injury to any facility or its production and services, when committed with the intent to impair the national defense, or to advantage a foreign power, or to prejudice the security of the United States against its enemies, foreign or domestic, or to effect any plan, policy, recommendation, directive, tactic, or strategy of any Communist, Marxist-Leninist, revolutionary, socialist, anarchist, nihilist, Nazi, Fascist, or other organization which has as a purpose the destruction of the constitutional form of government of the United States by any means deemed necessary to that end, including the unlawful use of force or violence.

No one would claim that the country's defenses should be compromised, or that its military secrets should be turned over to our enemies. But, self-protection cannot justify repression of rights, and the later sections of H.R. 14864 make even clearer that this bill is a product of paranoia, not prudence.

Section 405(c) authorizes the President to establish "criteria" and to conduct "inquiries and investigations concerning any person or organization." Note this—not just suspected subversives, but "any person or organization." Moreover, section 405(c) authorizes inquiries and investigations about anybody seeking a job in a "sensitive position, place, or area of employment." The unfair manner in which such investigations are to be conducted is drawn clearly by section 406:

> The willful refusal of such person to answer any relevant inquiry directed to him, or to authorize others to release relevant information about him, or to take a psychiatric examination when a question of mental illness has been raised, may, unless compliance is made, be considered sufficient to justify a refusal further to process his case, or to justify suspending, or revoking any such eligibility or authorization.

The bill, which so exhaustively defines "facility" and "act of subversion" conveniently omits any delineation of what is meant by "relevant." But this is the least of the problems. Section 406 establishes that silence is sufficient to justify a man's loss of his job. An employee, or applicant for a job, must sacrifice his claim to the privacy of the confidences he has told his doctor, his minister, and his attorney. And if someone—anyone—suggests that an employee has a mental problem—even if only by making a joking reference to the employee being a "screwball"—the employee must undergo a psychiatric examination.

Given this section, the objectionable features of the hearing procedures prescribed in section 407 are certainly expectable, although no more tolerable. The right to cross-examine an accuser is restricted. The right to be apprised of relevant evidence is limited under section 407(e).

Section 2 of the bill authorizes much the same practices in regard to merchant vessels and waterfront facilities, except that, in contrast to employees in defense industries, no semblance of procedural due process is given to prospective seamen whose eligibility for employment is at stake.

H.R. 14864 is an offense against individual liberties. The words of Chief Justice Warren, speaking for the Court in *United States* v. *Robel*, 389 U.S. 258

(1967), which the bill seeks to overturn, in effect, are exactly on point here:

"National defense" cannot be deemed an end in itself, justifying any exercise of legislative power designed to promote such a goal. Implicit in the term "national defense" is the notion of defending those values and ideals which set this Nation apart.

I include at this point in the RECORD an editorial which appeared today in the Washington Post:

SUBVERSION SYNDROME

The first bill to emerge from the House Internal Security Committee is precisely what you would expect: it is grotesque and dangerous. If any evidence were needed to demonstrate the folly of perpetuating the old Un-American Activities Committee under its current alias, it is abundantly presented in this legislative monstrosity, the Defense Facilities and Industrial Security Act of 1970.

The bill would give unreasonable power to the Secretary of Defense to determine who can hold a job at—or who can have access to—all manner of defense projects and facilities, *whether or not classified information is involved.* It would give the President almost unlimited power to order investigations of persons or organizations *whether or not they are under consideration for access to classified matter.* And under its sweeping, ambiguous language, the President, as Rep. Louis Stokes has pointed out, "would be justified in barring a worker employed in a defense industry because he took part in peaceful picketing of a chemical company in protest of its manufacture of napalm."

The bill is an undisguised attempt to overturn—or, to employ a more apposite term, to "subvert"—two Supreme Court decisions of recent years. Both decisions struck down so-called security screening procedures which flagrantly ignored the rights of individuals. Lawrence Speiser of the American Civil Liberties Union was right when he said about this in a letter to congressmen opposing the bill, "It is time that Congress ceased to view Supreme Court decisions protecting constitutional rights of American citizens as the actions of an enemy institution. Upholding the rights of American citizens is something to be applauded, not deplored." But this is a view never comprehended by the Internal Security Committee either in its old or its new incarnation.

Behind this malevolent and maladroit piece of legislation lies the misconception that lay behind the McCarthy hysteria of the 1950s—the misconception that the way to promote national security is to mistrust all Americans and to judge their suitability for employment in terms of the conventionality of their ideas.

But security is not fostered by hysteria. In one of the decisions which the Internal Security Committee is trying to overturn, the Supreme Court said: "For almost two centuries, our country has taken singular pride in its Constitution, and the most cherished of those ideals have found expression in the First Amendment. It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties—the freedom of association—which makes the defense of the nation worthwhile."

Mr. CELLER. Mr. Chairman, I want to thank the gentleman from Missouri and the gentleman from Ohio for their kindness in yielding this time to me.

Mr. Chairman, I think it was William Ewart Gladstone who said:

I have always regarded that Constitution as the most remarkable work known to me in modern times to have been produced by the human intellect, at a single stroke (so to speak), in its application to political affairs.

That was a remarkable tribute paid to our Constitution by a very great and distinguished statesman.

Mr. Chairman, in these days of "sturm and drang" as the Germans say, we all too often hear these horrible statements, "To hell with the Constitution. Let us get on with Draconian remedies." Well, the Constitution is sacred and here to stay, and the Supreme Court that interprets the Constitution is a time-honored body and its decisions are worthy and compelling and binding. Some benighted ones characterize that Court as an enemy when it upholds the right of the citizens and when it proclaims that the Constitution is a sword and a shield in peace as well as in war—a sword against the excesses of government and a shield against its cruelties. Upholding citizen rights, gentlemen, is to be applauded and not derided.

The Supreme Court struck down the so-called screening procedure of the old internal security law, and properly so. Unfortunately, this bill now subverts those decisions of the Supreme Court and again thumbs its nose, if I may use that crude expression, at the Constitution.

I am for national security, but I am against national hysteria that sees an enemy under every bed and a subversive in every closet. I feel that this bill is a result of national hysteria. This bill gives uninhibited power, without direction or standard, to the Secretary of Defense to tell who can hold a job or have access to defense projects and facilities, whether or not classified information is involved.

Mr. ICHORD. Mr. Chairman, would the gentleman yield to me at this point?

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

Mr. ICHORD. The gentleman has implied that the committee in bringing this bill before the Congress is yielding to hysteria. I want to assure the gentleman from New York that I am no more subject to hysterical impulses, I believe, than the distinguished gentleman from New York is if you say that this bill permits the Secretary of Defense to exclude persons from defense employment for any reason that he wishes.

Mr. CELLER. Oh, yes. Almost that——

Mr. ICHORD. Would the gentleman please explain that to the Members of the Committee?

Mr. CELLER. Yes. Just let me read carefully what facilities can be designated as defense facilities. Sections 402(a) and 404 include:

(a) any plant, factory, industry, public utility, mine, laboratory, educational institution, research organization, railroad, airport, pier, waterfront installation, canal, dam, bridge, highway, vessel, aircraft, vehicle, pipeline.

Such a facility need not have anything to do with classified information, but can come within the bill's provisions merely if the Secretary of Defense determines it to be an important "utility and service" whose "disruption or damage would cause a serious delay in essential services in times of emergency" at some uncertain and unspecified time in the future.

The bill does not just cover employment. It would give the Secretary of Defense the power to decide who can have "access" to any highway, vehicle, streetcar, or school. The bill would grant virtually dictatorial powers to the Secretary of Defense. The standards necessary to guide him are nonexistent or, where written into the act, are too loose to provide the slightest bit of direction.

Now, if you put standards in there, I would have no objection. But, this untrammeled, ineluctable, unrestrained power given to the Secretary of Defense, I just cannot swallow that and I am sure that the Supreme Court will not uphold these provisions. You will again have labor for your pains—with no appreciable results, except havoc, annoyance and disservice.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. ICHORD. Mr. Chairman, I yield the 1 additional minute which we have remaining on this side of the aisle to the gentleman from New York.

Mr. CELLER. That is very kind of the gentleman from Missouri.

Mr. Chairman, I just want to point out that the proposed legislation contains such vague criteria as the following:

Present or past membership in, or affiliation or association with, any organization, and such other activities, behavior, associations, facts and conditions, past or present, which are relevant to any determination to be made under this section.

Now, while it is true, as the committee report states, that this bill gives express congressional sanction to a Federal screening program, it utterly fails to provide concrete or meaningful standards. It suffers from the same constitutional infirmities that were uncovered by the Supreme Court in United States against Robel and which were struck down.

Quoting from that case is the following:

That statute casts its net across a broad range of associational activities, indiscriminately trapping membership which can be constitutionally punished and membership which cannot be so proscribed. It is made irrelevant to the statute's operation that an individual may be a passive or inactive member of a designated organization, that he may be unaware of the organization's unlawful aims, or that he may disagree with those unlawful aims.

In other words, he may be unaware that the organization is subversive.

Also, the President would have untrammeled power to investigate persons or organizations whether or not they are under consideration for access to classified material.

Such sweeping power should not be accorded even to the President. The President must rely upon subordinates. Thus an underling would exercise such inordinate power. An investigation could be inaugurated in the nature of thought control—dissent in Vice President Agnew's version could trigger an inquiry. This bill smacks of witch burning.

Those who are for this bill are adherents of the past, those opposed are partisans of the future.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. BINGHAM. Mr. Chairman, I am

strongly opposed to H.R. 14864. In my judgment, the arguments presented by the gentleman from Ohio (Mr. STOKES) in his dissent from the committee report, are persuasive. I also was impressed by the letter of opposition sent to every Member by the American Civil Liberties Union. I believe the ACLU's letter should be included in the RECORD, and I include it herewith under unanimous consent:

AMERICAN CIVIL LIBERTIES UNION,
WASHINGTON OFFICE,
Washington, D.C., January 27, 1970.

Re H.R. 14864, Defense Facilities and Industrial Security Act of 1970.

DEAR CONGRESSMEN: Once again, Congress is being called on to sacrifice individual freedom in the never-ending pursuit of that elusive goal, national security. The impetus for the latest onslaught on the Constitution is two decisions by the United States Supreme Court.

One, *Robel* v. *United States*, 389 U.S. 258 (1967), held that still another section of that hysteria-induced legislative monstrosity, the Subversive Activities Control Act of 1950, was unconstitutional because it attempted to bar all members of so-called Communist-action groups from *all* employment in any facility that had a defense contract, even though the individual had no access to classified material, and was in no position to affect national security in even the slightest way.

In the other decision, *Schneider* v. *Smith*, 390 U.S. 17 (1968), the Court struck down the personnel screening program covering all merchant marine personnel and dock workers on the perfectly correct grounds that the Magnuson Act of 1950 (50 U.S.C. 191) had not expressly or impliedly authorized any such broad program. The Magnuson Act was designed to protect our maritime industry from acts of sabotage or espionage. It has never been shown that screening the reading habits, beliefs, or associations of seamen or longshoremen is a useful, efficient or practical way of predicting who is likely to be a saboteur or an espionage agent.

H.R. 14864 is designed specifically to overturn these two court decisions. It is time that Congress ceased to view Supreme Court decisions protecting constitutional rights of American citizens as the actions of an enemy institution. Upholding the constitutional rights of American citizens is something to be applauded, not deplored.

For all of the Congressional furor, not a single spy or saboteur has ever been uncovered by any of the loyalty-security programs which sprang up during the McCarthy period. Congress should begin to view the problem of national security with a cold unemotional eye—and perceive that the past loyalty-security programs which H.R. 14864 seeks to reinstate are not really protective of national security, but, instead, greatly undermine confidence in the government's commitment to the Constitution's guarantee of rights to all citizens.

A security program which takes proper account of these individual liberties should be restricted in two ways: (1) to apply only to limited physical facilities or materials actually needing protection, and (2) to cover the smallest number of people possible.

These restrictions would insure that no time, manpower, or money are wasted on a diffuse, inefficient program, as was the case in the programs invalidated in *Robel* and *Schneider*, that national security is not protected by a shotgun approach, and that the constitutional liberties of all citizens are respected.

Yet this is exactly what H.R. 14864 proposes. In fact it would go beyond even the coverage that existed prior to *Robel*.

EVERYTHING IS A DEFENSE FACILITY

Read carefully the definition of the facilities which can be designated as defense facilities (§§ 402(a), 404). They include "any plant, factory, industry, public utility, mine, laboratory, *educational institution*, research organization, railroad, airport, pier, waterfront installation, canal, dam, bridge, *highway*, vessel, aircraft, *vehicle*, pipeline."

Such a facility need not have anything to do with classified information, but can come within the bill's provisions merely if the Secretary of Defense determines it to be an important "utility and service" whose "disruption or damage *would* cause a serious delay in essential services in times of emergency" at some uncertain and unspecified time in the future. (§ 404)

The bill does not just cover employment. It would give the Secretary of Defense the power to decide who can have "access" to any highway, vehicle, streetcar, or school. (§ 405 (a)) This bill would grant virtually dictatorial powers to the Secretary of Defense. The standards necessary to guide him are nonexistent or, where written into the Act, too loose to provide the slightest bit of direction.

EVERYONE CAN BE INVESTIGATED

If the powers given to the Secretary of Defense are broad, the powers given to the President are unlimited. The bill authorizes the President to cause the investigation of "any person or organization", not just those who are being considered for employment or for access to classified materials. (§ 405(c))

And the scope of those investigations is limitless—"present or past membership in or affiliation with *any* organization." Not just communist association, but *any* organization, religious, fraternal, Boy Scouts, YMCA, etc. could be grist for the investigative mill.

Privacy will come to an end not just for those who apply for positions which require access to classified information, but for all United States citizens who may be investigated regarding anything or everything in their lives, past or present. 1984 will come, blessed by Congressional authorization.

ACTS OF SUBVERSION

The bill defines an "act of subversion" among other things as "any act which causes or would tend to cause damage or injury to any facility or its production and services, when committed with the intent . . . to advantage a foreign power . . . or to effect *any* plan, policy, recommendation of any Communist, etc. . . . or other organization which has as a purpose the destruction of the constitutional form of government *by any means deemed necessary* to that end, including the unlawful use of force or violence." (§ 402(5))

This almost unlimited definition could even encompass any organization advocating the peaceful, nonviolent change of the United States government by means of the ballot. It is not fanciful to suggest that the following goals would fall within the definition of "acts of subversion":

(1) To work for a Super Court of State court judges which could overrule Supreme Court decisions,

(2) To call for a constitutional convention to overturn Supreme Court decisions in the reapportionment field or to change the organization of the Congress,

(3) To attempt "massive resistance" to court decisions,

(4) To work toward nationalization of railroads (revolutionary socialist), governmental ownership of municipal buslines and street car lines, public utilities (Communist), autobahns (Nazi), the operation of trains which run on time (Fascist), the elimination of governmental regulation of certain industries (anarchist) etc., or

(5) To demonstrate peacefully against the war in Vietnam.

Other defects in the bill are spelled out persuasively and at length in Congressman Louis Stokes superb dissenting views. They include:

(1) denying a witness the right to refuse to incriminate himself in exchange for immunity granted without any judicial safeguards, (§ 413)

(2) treating assertion of Fifth Amendment rights as an "obstruction of inquiry" sufficient to justify denial or revocation of eligibility, thus forcing an individual into a clearly unconstitutional choice between self-incrimination or forfeiting his job, (§ 406)

(3) severely limiting the individual's right to cross-examine adverse witnesses or evidence, (§ 407)

(4) denying federal courts the jurisdiction to enjoin even blatant administrative errors or even to hear complaints from aggrieved persons until the entire administrative process has run its course, (§ 416)

(5) re-vitalizing a maritime and waterfront personnel screening program which authorizes investigations into reading habits, philosophies, and beliefs of prospective seamen and which totally lacks any procedural due process or other safeguards. (§ 2)

There can be no doubt that this bill totally disregards any meaningful protection for cherished individual freedoms. In the words of the Supreme Court in *Robel:* "It would, indeed, be ironic, if in the name of national defense, we would sanction the subversion of one of those liberties . . . which makes the defense of the nation worthwhile." (389 U.S. at 264.)

We urge you to unequivocally reject H.R. 14864.

Sincerely yours,

LAWRENCE SPEISER,
Director, Washington Office.

Mr. LOWENSTEIN. Mr. Chairman, I am opposed to this proposed legislation and commend to the attention of the House the following editorial from today's Washington Post:

SUBVERSION SYNDROME

The first bill to emerge from the House Internal Security Committee is precisely what you would expect: it is grotesque and dangerous. If any evidence were needed to demonstrate the folly of perpetuating the old Un-American Activities Committee under its current alias, it is abundantly presented in this legislative monstrosity, the Defense Facilities and Industrial Security Act of 1970.

The bill would give unreasonable power to the Secretary of Defense to determine who can hold a job at—or who can have access to—all manner of defense projects and facilities, *whether or not classified information is involved*. It would give the President almost unlimited power to order investigations of persons or organizations *whether or not they are under consideration for access to classified matter*. And under its sweeping, ambiguous language, the President, as Rep. Louis Stokes has pointed out, "would be justified in barring a worker employed in a defense industry because he took part in peaceful picketing of a chemical company in protest of its manufacture of napalm."

The bill is an undisguised attempt to overturn—or, to employ a more apposite term, to "subvert"—two Supreme Court decisions of recent years. Both decisions struck down so-called security screening procedures which flagrantly ignored the rights of individuals. Lawrence Speiser of the American Civil Liberties Union was right when he said about this in a letter to congressmen opposing the bill, "It is time that Congress ceased to view Supreme Court decisions protecting constitutional rights of American citizens as the actions of an enemy institution. Upholding the rights of American citizens is something to be applauded, not deplored."

But this is a view never comprehended by the Internal Security Committee either in its old or its new incarnation.

Behind this malevolent and maladroit piece of legislation lies the misconception that lay behind the McCarthy hysteria of the 1950s—the misconception that the way to promote national security is to mistrust all Americans and to judge their suitability for employment in terms of the conventionality of their ideas.

But security is not fostered by hysteria. In one of the decisions which the Internal Security Committee is trying to overturn, the Supreme Court said: "For almost two centuries, our country has taken singular pride in its Constitution, and the most cherished of those ideals have found expression in the First Amendment. It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties—the freedom of association—which makes the defense of the nation worthwhile."

Mr. OTTINGER. Mr. Chairman, I rise today in opposition to H.R. 14864, the Defense Facilities and Industrial Security Act.

The hearing record on this legislation clearly indicates that it is not necessary and neither the Departments of Defense nor Justice could find any compelling need for the industrial security program established by it. The current program established by Executive Order 10865 is reported to be operating satisfactorily and H.R. 14864 essentially represents a backward step.

Furthermore, this measure constitutes an extremely serious threat to those personal liberties guaranteed by the Constitution. Some of this legislation's more repugnant provisions deny a witness the right to refuse to incriminate himself in exchange for a meaningful immunity, severely limit the individual's right to cross-examine adverse witnesses, and deny Federal courts the jurisdiction to enjoin even blatant administrative errors or even to hear complaints from aggrieved persons until the entire administrative process has been completed.

This distasteful legislation—harking back to the witch hunts of the Joseph McCarthy era—makes no attempt to furnish any specific or detailed guidelines for the President to determine who may work in certain defense industries and it could easily become a vehicle for arbitrary and capricious actions. It also authorizes investigations into reading habits, and personal philosophies and beliefs. It lacks any procedural due process provision or other safeguards.

Mr. Chairman, I commend our distinguished colleague from Ohio (Mr. STOKES) for his fine dissenting views on this undesirable legislation and I am pleased to associate myself with his remarks.

Not only has this bill strayed too far in the area of vagueness but, as an attorney, I believe it is subject to invalidation on any number of constitutional grounds in its poorly disguised attempt to reverse or circumscribe some eight existing Supreme Court decisions in the field of civil rights and liberties.

Almost every provision of H.R. 14864 is defective. Particularly repugnant is the provision permitting investigation that may probe into every aspect of an individual's life, limited only by some bureaucrat's concept of relevancy.

I feel very strongly that we should not relax our efforts to combat internal subversion and effectively safeguard our defense facilities. However, there seems to be no convincing evidence that our present security measures are inadequate to fulfill their task. This legislation is certainly distasteful to those principles and ideals for which our country stands, and it clearly violates the most fundamental of constitutional rights. I, therefore, urge its defeat.

Mr. FARBSTEIN. Mr. Chairman, I rise in unequivocal opposition to H.R. 14864, the Defense Facilities and Industrial Securities Act of 1970 reported from the Committee on Internal Security.

Once again, Congress is being called on to sacrifice individual freedom in the never-ending pursuit of that elusive goal, national security. The impetuses for the latest onslaught on the Constitution are two decisions by the U.S. Supreme Court. One Robel against United States held a section of the Subversive Activities Control Act of 1950 unconstitutional because it barred all members of so-called Communist-action groups from all employment in any facility that had a defense contract, even if the individual had no access to classified material. The other, Schneider against Smith, struck down the personnel screening program of merchant marine personnel, because it was not authorized by law.

H.R. 14864 is designed to overturn these two Court decisions. It is time that Congress ceased to view Supreme Court decisions protecting constitutional rights of American citizens as the actions of an enemy institution. Upholding the constitutional rights of American citizens is something to be applauded, not deplored.

For all the furor, not a single spy or saboteur has ever been uncovered by any of the loyalty-security programs which sprang up during the McCarthy period. We should realize that the past loyalty-security programs this legislation seeks to reinstate are not really protective of national security, but, instead, greatly undermines confidence in the Government's commitment to the Constitution's guarantee of rights to all citizens.

A security program which takes proper account of individual liberties should be restricted in two ways: First, to apply only to limited physical facilities or materials actually needing protection, and second, to cover the smallest number of people possible.

These restrictions would insure that no time, manpower, or money are wasted on a diffuse, inefficient program, as was the case in the programs invalidated in Robel and Schneider, that national security is not protected by a shotgun approach, and that the constitutional liberties of all citizens are respected.

Yet, this is exactly what H.R. 14864 proposes. In fact it would go beyond even the coverage that existed prior to Robel.

It defines a defense facility to include anything the Secretary of Defense determines affects "essential services in times of emergency." It would give him the power to decide not just who can be employed, but who can have "access" to any highway, vehicle, streetcar, or school.

It authorizes the investigation of anyone by the President, "any person or organization," and not just those who are being considered for employment or for access to classified materials. And the scope of those investigations is not limited to just Communist associations, but includes "present or past membership in or affiliation with any organization."

And the definition of "act of subversion" is almost limitless, including "any act—to effect any plan, recommendation or any—organization which has as a purpose the destruction of the constitutional form of government by any means deemed necessary." This almost unlimited definition could even encompass any organization advocating the peaceful, nonviolent change of the U.S. Government by means of the ballot.

Other defects in the bill include: First, denying a witness the right to refuse to incriminate himself in exchange for immunity granted without any judicial safeguards; second, treating assertion of fifth amendment rights as justification for denial or revocation of employment; third, limiting the right to cross-examine adverse witnesses or evidence; fourth, denying Federal courts the jurisdiction to enjoin even blatant administrative errors until entire administrative process has run its course; and fifth, revitalizing the maritime personnel screening program which authorizes investigations into reading habits, beliefs, et cetera, of prospective seamen, and without any procedural safeguards.

There can be no doubt that this bill totally disregards any meaningful protection for cherished individual freedoms. I urge my colleagues to join with me in rejecting it.

Mr. MIKVA. Mr. Chairman, I am voting against H.R. 14864 because it is unnecessary, because it is unconstitutional, and because it is a step toward Government control over the associations and beliefs of Americans. I cannot support such a bill.

No one opposes a program to provide reasonable security for defense facilities or for industrial installations which handle classified projects. But we already have such a program and it is working well. It has been established pursuant to Executive Order No. 10865 and it is entirely adequate. Even Deputy Attorney General Kleindienst, not noted as a soft-liner on matters of internal security, told the committee:

In view of the satisfactory operation of the present Industrial Personnel Security Program under Executive Order 10865, we do not suggest that there is a compelling need for legislation in this area. (House Report No. 91–757 at P. 32.)

Since we already have an adequate and satisfactory industrial security program, what is the purpose of this legislation? It is to extend the scope of the present program both as to the kinds of facilities and jobs for which clearances are required—including facilities and jobs where no classified material is ever used—and as to the kinds of associations and beliefs which may be investigated and used as a basis for denying such clearances. Mr. Kleindienst admits:

The Bill would provide the statutory authority necessary for limited inquiry into an individual's affiliations, memberships,

and beliefs. . . . proposed Section 405(c) would specifically touch on associational freedoms, and First Amendment issues would no doubt be encountered in its administration. (Report at p. 33.)

With such a purpose, this bill is clearly unconstitutional.

In the case of *United States* v. *Robel*, 389 U.S. 258 (1967), the Supreme Court struck down sections of the Internal Security Act of 1950 which attempted to do almost precisely what the present bill attempts to do. In Robel, the Court pointed out the first amendment problems with such legislation:

It is precisely because the statute sweeps indiscriminately across all types of associations with Communist-action groups, without regard to the quality and degree of membership, that it runs afoul of the First Amendment. . . .

The operative fact upon which the job disability depends is the exercise of an individual's right of association, which is protected by the provisions of the First Amendment.

Despite the fact that this bill is unnecessary, several Members and I have honestly tried to take out some of the more flagrantly unconstitutional and unwise provisions. We tried to insure that a worker who was required by the Secretary of Defense to obtain a clearance would at least have the right to confront persons who gave derogatory evidence against him. We tried to insure that the right of confrontation and cross-examination, so fundamental to our concepts of due process of law, was safeguarded. But this amendment was rejected.

We tried to insure that no activities which are constitutionally protected by the first amendment could be used as the basis for denying a security clearance so that a man's freedom of speech and freedom of association could not be used as a club against him. But this amendment was rejected.

Finally, in an amendment which I offered, we tried to limit the scope of organizational affiliations which could be considered in denying a clearance to active memberships in illegal organizations. The absence of such a limitation is precisely the ground on which this bill's predecessor was struck down by the Supreme Court as unconstitutional. In the Robel case the Court said:

That statute casts its net across a broad range of associational activities, indiscriminately trapping membership which can be constitutionally punished and membership which cannot be so proscribed. . . . Thus, [that statute] contains the fatal defect of overbreadth because it seeks to bar employment both for association which may be proscribed and for association which may not be proscribed consistently with First Amendment rights.

This same indiscriminate proscription of all kinds of memberships and associations with all kinds of organizations is what I attempted to limit in my amendment. But that amendment was also rejected.

The bill in its present form unnecessarily enlarges the kinds of facilities covered and it unconstitutionally enlarges the kinds of associations and beliefs to be investigated. Hundreds of thousands of workers in defense-related plants, laboratories, educational institutions, transportation services—railroads, vessels, aircraft—and even public places—pier, bridge, highway—will be covered. They will have Government investigators prying into their private lives, checking whom they talk to and what they read, and compiling dossiers on them. Hundreds of thousands more citizens will have Government bureaucrats passing judgment on the propriety of their associations and activities. Hundreds of thousands of Americans will be brought under the scrutiny of "big brother." Since the existing industrial security program already covers anyone who has access to classified material, the workers now added by this bill are workers who will never touch or see classified material.

As the Supreme Court said in rejecting the earlier attempts to enact such unnecessarily broad and sweeping security legislation:

It would, indeed, be ironic, if in the name of national defense, we would sanction the subversion of one of those liberties—the freedom of association—which makes the defense of the nation worthwhile.

So this bill is both unnecessary and, by the standards the Court has already clearly enunciated, unconstitutional. But that is not all that is wrong with it. It is also diversionary and wasteful.

It is diversionary because it so broadens the industrial security effort beyond the admittedly adequate program now operating that it will diffuse the limited resources which can be devoted to the program. It will divert attention and effort from those areas where real danger may exist—the areas where classified material is dealt with—to areas which are of no defense significance. My view is that this bill will actually reduce the effectiveness of the present industrial security program because it will spread the limited resources of that program over a far broader group, making it just that much more difficult to concentrate on areas of real concern.

And the bill is wasteful because it would greatly expand the scope of the present program—at a tremendous cost in dollars and man-hours—with no increase in security for really important and sensitive activities. As an example, the Chief of the Personnel Security Branch of the Directorate for Security Policy, Department of Defense, Mr. James Casey, told my office yesterday that latest estimates of the number of additional workers who would be covered by this bill is 430,000. These 430,000 workers, who never see classified material, will have to be "cleared" before they can retain their jobs. And the cost of these clearances? There are no cost estimates in the committee's report, but every background investigation the Government makes costs the taxpayers $280. If every one of these 430,000 workers needs a background investigation at $280 a shot, you can figure out for yourself what that will cost. And this is supposed to be a time to worry about inflationary Government spending. At least so we were told yesterday when we voted on the President's veto of money for education.

We are asked to vote today for a bill which the administration admits is not necessary, which it did not ask for, which is unconstitutional under standards clearly announced by the Court, which is diversionary and wasteful, and which is another erosion of those liberties—privacy and freedom of association—which make our country worth living in.

The bill is not worthy of this Congress and I will not vote for it.

Mr. RIVERS. Mr. Chairman, I rise in support of H.R. 14864.

First, I want to commend the distinguished chairman, the gentleman from Missouri (Mr. ICHORD), and his committee on the work that they have done in preparing this legislation. They have put a great deal of effort into its preparation and the result is a fine piece of legislation.

It is obvious that the protection of our defense facilities is essential to our national security. However, since 1967 that protection has been jeopardized and legislation such as H.R. 14864 has been vitally needed. In 1967 the Supreme Court decided the case in United States against Robel which held that section 5, title I, of the Internal Security Act of 1950 was unconstitutional. This section denied employment in a defense facility to a member of the Communist Party. While voiding section 5, the Court was careful to point out that they were not striking the concept but rather found that section 5 was too broad and vague in its denial. The Court indicated that the section did not distinguish between sensitive positions and insensitive positions at defense facilities nor did it distinguish between passive and active, knowing and nonknowing members of the Communist Party.

Mindful of this distinction in the Robel case and mindful of all other recent Supreme Court cases of a similar nature, the distinguished gentleman from Missouri (Mr. ICHORD) has prepared a bill which meets the constitutional tests established by the Court. H.R. 14864 is a narrowly drawn piece of legislation. It clearly protects the rights of the individual while successfully protecting the security of our defense facilities by barring subversives from employment in sensitive defense positions. The bill establishes sufficient standards to guide the executive branch in defining sensitive positions in defense facilities and in carrying out the screening of individuals who seek employment in such positions.

In addition, H.R. 14864 improves upon the industrial security program now being operated by the executive branch under Executive Order 10865. We are well aware of the deficiencies that exist in this program as operated under the Executive order and as the chairman so accurately points out, Congress has been remiss in not legislating to remove these deficiencies and thus protect the rights of the individual.

In all respects, I find this bill to be true to its aim of protecting our defense facilities, while guaranteeing fair treatment of individuals connected with, or seeking employment with, such defense facilities.

It is with pleasure that I give to this bill my wholehearted support.

Mr. ASHBROOK. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Internal Security Act of 1950 is amended by adding at the end thereof the following new title:

"TITLE IV—DEFENSE FACILITIES AND INDUSTRIAL SECURITY

"SEC. 401. This title may be cited as the 'Defense Facilities and Industrial Security Act of 1970'.

"DEFINITIONS

"SEC. 402. For the purposes of this title—

"(1) The term 'facility' means any manufacturing, producing or service establishment, enterprise or legal entity, any plant, factory, industry, public utility, mine, laboratory, educational institution, research organization, railroad, airport, pier, waterfront installation, canal, dam, bridge, highway, vessel, aircraft, vehicle, pipeline, or any part, division, department, or activity of any of the foregoing.

"(2) The term 'defense facility' means any facility designated as such under section 404.

"(3) The term 'classified', as applied to information, or to any project, production, or service, includes any information, regardless of country of origin, which in the interest of the defense of the United States is specifically designated pursuant to law or Executive order by an agency of the United States Government for limited or restricted dissemination, distribution, or access.

"(4) The term 'sensitive' means, with respect to a position, place, or area of employment, a person's special and enlarged opportunity or capacity, by reason of his position, place, or area of employment, to commit, or to aid or abet another to commit, an act of sabotage, espionage, or any act of subversion which would impair the military effectiveness of the United States, or the production and development of essential materials and services of importance to the national defense, or would endanger the safety of military personnel or the security of classified information.

"(5) The term 'act of subversion' means any unauthorized disclosure of classified information, or any act, omission to act, conspiracy, or solicitation to commit any act or omission, which causes or would tend to cause damage or injury to any facility or its production and services, when committed with the intent to impair the national defense, or to advantage a foreign power, or to prejudice the security of the United States against its enemies, foreign or domestic, or to effect any plan, policy, recommendation; directive, tactic, or strategy or any Communist, Marxist-Leninist, revolutionary socialist, anarchist, nihilist, Nazi, Fascist, or other organization which has as a purpose the destruction of the constitutional form of government of the United States by any means deemed necessary to that end, including the unlawful use of force or violence.

"(6) The terms 'sabotage' and 'espionage' mean those offenses punishable as such under Federal law.

"(7) The term 'contractor' means any individual or any industrial, commercial, educational, or other entity which has executed a contract or agreement with the Department of Defense or with any agency of the Government of the United States.

"(8) The term 'association', as applied to a person's conduct, means a person's activities, or other objective manifestation of conduct, in relation to another person or organization.

"(9) The term 'affiliation', when applied to a person's relation to an organization, means the existence between such person and the organization of such a close working alliance or association that the conclusion may reasonably be drawn that there is a mutual understanding or recognition between such person and organization that the organization can rely and depend upon such person to cooperate with it and to work for its benefit for an indefinite future time. A practice of giving or loaning money or any other thing of value, or of providing security for the repayment of any such loan, to any organization, other than by a commercial bank or lending institution in the usual course of business, shall create a rebuttable presumption of affiliation with such organization. Nothing in this paragraph shall be construed as an exclusive definition of affiliation.

"SEPARABILITY OF PROVISIONS

"SEC. 403. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

"DESIGNATION OF DEFENSE FACILITIES

"SEC. 404. (a) In the interest of providing for the common defense of the United States and to that end to provide adequate protection for facilities highly essential to this Nation's defense production, whose loss or injury would impair this Nation's defense and mobilization capabilities, it is the purpose of this section to secure such facilities against the dangers of sabotage, espionage, and other acts of subversion.

"(b) Under such regulations as the President may prescribe, the Secretary of Defense shall designate as defense facilities such facilities of the kind specified in subsection (c) as are engaged in whole or in part in furnishing defense materials or services for the use of the Government of the United States whose designation the Secretary determines is necessary to effectuate the purposes of this section.

"(c) Facilities authorized to be designated as defense facilities under subsection (b) shall be limited to—

"(1) facilities engaged in important classified military projects,

"(2) facilities producing important weapons, weapons or defense systems, their subassemblies and components,

"(3) facilities producing basic material and raw material which are essential to the support of military production or mobilization programs and in limited supply, or

"(4) important utility and service facilities:

Provided, however, That no facility described in paragraph (3) shall be designated unless its productive capacity accounts for a substantial portion of total national capacity or unless its production would be in critical demand in times of emergency, and no facility described in paragraph (4) shall be designated unless its disruption or damage would cause a serious delay in essential services in times of emergency or would substantially affect the national defense capability.

"(d) The Secretary shall promptly notify the management, and any labor organization (as the term is defined in section 2(5) of the National Labor Management Relations Act, 1947, as amended), of any facility which he proposes to designate as a defense facility, of the opportunity of the management and such labor organization to oppose such designation by written objection and oral argument. In the absence of objection to the proposed designation or upon final determination in favor of such designation, the Secretary of Defense shall give notice of such designation to such management and labor organization and may cause the management to post (in such place or places within or upon the premises of such facility as shall be likely to give knowledge or notice of such designation to affected employees of, and applicants for employment in, such facility) a conspicuous notice of such designation of such facility. Nothing in this section shall be construed to require the Secretary to disclose information which he determines will impair the national interest or security.

"(e) The Secretary of Defense shall designate the positions, places, and areas of employment in any defense facility which he determines to be sensitive.

"PROTECTION OF DEFENSE FACILITIES AND CLASSIFIED INFORMATION

"SEC. 405. (a) To effectuate the purpose of section 404(a), the President is authorized to issue such regulations and to prescribe such procedures as may be necessary for determining eligibility and authorization for access of individuals and for controlling such access to positions, places, or areas of employment in defense facilities which the Secretary of Defense determines to be sensitive under section 404. Authorization for access to, or control of, such positions, places, or areas may be granted only upon a finding that such authorization is clearly consistent with the national defense interest.

"(b) The President is authorized to institute such measures and issue such regulations, standards, restrictions, and safeguards as may be necessary to protect against unauthorized disclosure classified information released to any contractor, or subcontractor, including procedures for determining eligibility and authorization for access to classified information so released. Authorization for access to classified information may be granted only upon a finding that such authorization is clearly consistent with the national defense interest.

"(c) The President may establish criteria and authorize inquiries and investigations concerning any person or organization, as well as inquiries directed to any person whose eligibility and authorization for access to, or control of, any such sensitive position, place, or area of employment or access to classified information is to be determined, regarding any such person's present or past membership in, or affiliation or association with, any organization, and such other activities, behavior, associations, facts, and conditions, past or present, which are relevent to any determination to be made under the provisions of this section.

"(d) The security programs established in subsections (a) and (b) of this section shall be implemented at the facility level after consultation with facility management and, so far as practicable, shall accommodate differences in degrees and types of security required, different types of facility organization and operation, and such other considerations as may be pertinent to the effective, economical, and well-balanced administration thereof.

"OBSTRUCTION OF INQUIRY

"SEC. 406. In the course of any inquiry, investigation, proceeding, or hearing to determine the eligibility or authorization of any person for access to, or control of, a sensitive position, place, or area of employment in any defense facility or for access to classified information, whether or not on review of any such eligibility or authorization previously granted, the willful refusal of such person to answer any relevant inquiry directed to him, or to authorize others to release relevant information about him, or to take a psychiatric examination when a question of mental illness has been raised, may, unless compliance is made, be considered sufficient to

justify a refusal further to process his case, or to justify denying, suspending, or revoking any such eligibility or authorization. Should a refusal further to process any such case be made or should any eligibility or authorization be denied, suspended, or revoked for such reason, the person adversely affected shall be entitled on request to a review of such action as the President by regulation shall provide.

"HEARING PROCEDURES

"SEC. 407. (a) Except as provided in subsection (f) of this section, a person's eligibility for access to, or control of, a sensitive position, place, or area of employment in a defense facility or access to classified information may not be finally denied, suspended, or revoked under this title unless such person (hereafter also referred to as 'applicant') has been given—

"(1) a written statement of reasons for the denial, suspension, or revocation stated as comprehensively and detailed as the national security permits;

"(2) an opportunity, after he has replied in writing within a reasonable time under oath or affirmation in specific detail to the statement of reasons, for a personal appearance at which time he may present evidence in his own behalf;

"(3) a reasonable time to prepare for the proceeding;

"(4) the opportunity to be represented by counsel; and

"(5) a written notice advising him of final action, which notice, if final action is adverse, shall specify either the finding has been for or against him with respect to each allegation in the statement of reasons.

"(b) The applicant shall be afforded an opportunity to cross-examine, either orally or through written interrogatories, persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity if—

"(1) the head of the department of the United States supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national security interests; or

"(2) the head of the department conducting the hearing, or his principal deputy, has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and such head of the department, or such principal deputy, has determined that failure to receive and consider such statement would, in view of the level of clearance sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death or severe illness, or because such person is beyond the jurisdiction of the United States and his appearance cannot be compelled, or such person is by law exempt from the command of process and refuses to appear on request, or after due and diligent search such person cannot be found, in which case the identity of the person and the information shall be made available to the applicant, or (B) because such person's appearance and identification may result in grievous bodily harm to him, or members of his family, in which case the information to be considered shall be made available to the applicant.

Nothing contained in this title shall be deemed to support a claim by an applicant to inspect or have access to the investigative reports of any agency of the Government.

"(c) Wherever procedures under paragraph (1) or (2) of subsection (b) of this section are used, the applicant shall be given a summary of the information which shall be as comprehensive and detailed as national security permits, appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

"(d) Reproduced copies, or summaries of relevant entries, of records, compiled in the regular course of business, including but not limited to records of hospitals, practicing physicians, courts, police arrests, debts, and credit, may be received and considered without authenticating witnesses but subject to rebuttal, provided that such information has been furnished to the department concerned by the organization or individual maintaining the record or by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned with carrying out his security responsibilities.

"(e) Documentary, physical, or other real evidence relating to controverted issues, which because it is classified may not be inspected by the applicant, may be received provided that (A) the head of an executive department, or his special designee for that purpose, has made a preliminary determination that the evidence appears to be material, (B) the head of such department, or his designee, has made a determination that failure to receive and consider the evidence would, in view of the level of clearance sought, be substantially harmful to the national security, and (C) to the extent that the national security permits, a summary or description of the evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of the evidence shall be considered. In such cases, a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

"(f) Nothing contained in this title shall be deemed to limit or affect the responsibility and powers of the head of a department of Cabinet rank to deny, suspend, or revoke access to classified information if the security of the Nation so requires when such head of the department personally determines that the procedures prescribed in this section or section 408 of this title cannot be invoked consistently with the national security, and such determination shall be conclusive. Such authority may not be delegated.

"SUMMARY SUSPENSION OF CLEARANCE OR ACCESS

"SEC. 408. The measures instituted or regulations issued by the President pursuant to section 405 of this title may operate summarily to suspend or revoke any person's access to, or control of, a sensitive position, place, or area of employment in a defense facility or access to classified information: *Provided*, That (1) he shall be notified in writing of the reasons for the action taken against him within thirty days from the time such action is taken, except that the furnishing of such statement of reasons may be postponed, from time to time, for good cause, but shall not be postponed for a period in excess of ninety days from the time such action is taken, and (2) such person, if he so requests, shall be given a hearing thereon in accordance with applicable procedures set forth in section 407 of this title.

"SEPARATION OF DECISION FUNCTION

"SEC. 409. In any hearing, requested by the applicant on review of agency action taken against him under section 406, or granted pursuant to sections 407 and 408, no employee or agent of the Government who has performed an investigative or prosecuting function for the agency in that case shall participate in the agency decision, recommended decision, or review of that case, except as witness or counsel.

"PRIVACY OF PROCEEDINGS

"SEC. 410. Under such regulations as the President may prescribe, members of the general public may be denied access to the whole or any part of the proceedings and hearings conducted under sections 406, 407, and 408: *Provided, however,* That hearings conducted under such sections shall be public if the person requesting a hearing so demands.

"TRAINING OF ADMINISTRATIVE PERSONNEL

"SEC. 411. The President shall cause to be established or maintained within the appropriate agency or agencies charged with the administration of this title, a program for the special training of investigative personnel, screening or hearing officers, counsels, examiners, and members of boards assigned or authorized for the execution of their duties under this title, including but not limited to training on the subject of the origin and history of Communist and other subversive organizations, domestic and foreign, their diversity and identification, leadership, their organizational recruitment, and indoctrination techniques, conflict doctrines, tactics and strategy.

"REIMBURSEMENT FOR LOSS OF EARNINGS

"SEC. 412. The President shall, in accordance with such regulations as he may prescribe, provide for the reimbursement of all or any part of an applicant's net loss of earnings resulting directly from the suspension, denial, or revocation of clearance pursuant to the provisions of this title if thereafter a final determination is made that (1) the applicant has been determined to be eligible for such clearance, and (2) after considering all of the facts and circumstances under which the suspension, denial, or revocation occurred, it is fair and equitable that the United States, rather than the applicant, bear the loss for which reimbursement is to be made. Reimbursement may not exceed the difference between the amount the applicant would have earned as an employee of the same employer had he continued in the same position as that held at the time of suspension, denial, or revocation and his interim earnings, if any, during the period commencing on the date of suspension, denial, or revocation and ending with date of giving notice to the applicant by regular first-class mail addressed to his last known address of his eligibility for clearance. Due regard shall be given to the duty of the applicant to minimize damages during the period of any such suspension, denial, or revocation, by reasonably seeking and accepting other employment for which he may be qualified.

"COMPULSORY PROCESS AND IMMUNITY

"SEC. 413. (a) Under such regulations and limitations as the President may prescribe, the President (or his designee for such purpose) shall have power to administer oaths or affirmations and, for good cause shown, shall issue process to compel witnesses to appear and testify or produce papers or material at any designated place and at any stage of any inquiry, investigation, hearing, or proceeding entered upon pursuant to the provisions of this title. Any process so issued may run to any part of the United States and its possessions, including the Commonwealth of Puerto Rico. No person, on the ground or for the reasons that testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture, shall be excused from testifying or producing papers or material, but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he, after claiming such privilege

against self-incrimination, shall be compelled to testify, or produce papers or material, nor shall testimony or evidence, so compelled, nor any fact or information which may be discovered as a result of such testimony or evidence, be used as evidence in any criminal proceeding against him in any court; but no natural person so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying. Any of the district courts of the United States within the jurisdiction of which such inquiry, investigation, hearing, or proceeding is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear (and produce books and material if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) Witnesses subpenaed or called to testify or produce evidence at any inquiry, investigation, hearing, or proceeding are authorized travel expenses and per diem as provided by law for witnesses in courts of the United States. The President may, in accordance with such regulations as he shall prescribe, provide that such fees and expenses of witnesses subpenaed or called by or on behalf of the applicant shall, under certain equitable circumstances and in the interest of justice, be borne in whole or in part by the United States: *Provided, however,* That if the applicant be the prevailing party, such fees and expenses shall be borne in whole by the United States.

"RESTRICTED AREAS

"SEC. 414. For the further safeguarding of defense facilities, and of classified information released to any facility, the President may, under such regulations as he shall prescribe, authorize the Secretary of Defense, or his designee for such purpose, to establish area restrictions and prohibitions limiting access to any such facilities and areas adjacent thereto against intrusion by unauthorized persons. Notice of such restrictions or prohibitions shall be posted within or upon the premises of such facility at such places as shall be likely to give notice of such restrictions or prohibitions, and shall include a notice of the penalty provided by this section for violation thereof. Whoever, contrary to the restrictions or prohibitions applicable to any such area, willfully enters, or remains in, any such restricted or prohibited area shall be fined not more than $500 or imprisoned not more than six months, or both.

"PROTECTION OF FACILITIES IMPORTANT TO THE NATIONAL DEFENSE

"SEC. 415. To protect facilities essential to defense mobilization against sabotage, espionage, acts of subversion, and other destructive acts and omissions, the President is authorized to develop and execute, under such regulations as he may prescribe, programs and measures for such purpose, including—

"(1) the development and promulgation of standards of security to be applicable to the foregoing facilities which shall as far as practicable accommodate differences in degrees and types of security required, different categories of facilities, different security ratings, and such other considerations as may be pertinent;

"(2) the development of security measures and cooperative action with respect thereto in consultation with the representatives of industry, labor organizations, agencies of State governments, trade associations, professional security associations, and other technically qualified persons;

"(3) the institution of training and educational programs in cooperation with industry and labor;

"(4) the furnishing of advice and assistance to the management or the owner of such facility with respect to administering and executing a security program therefor; and

"(5) the dissemination of appropriate intelligence information to representatives of management or labor.

"JURISDICTION OF COURTS

"SEC. 416. (a) In any case where a person's access to, or control of, a sensitive position, place, or area of employment in any defense facility or access to classified information has been denied, suspended, or revoked pursuant to this title, no court of the United States shall have jurisdiction at any time to issue any restraining order or temporary or permanent injunction having the effect of granting or continuing such access or control. Nor shall any court of the United States have jurisdiction of any action or proceeding on the complaint of any person adversely affected by the enforcement, execution, or application of the provisions of this title, except after exhaustion of the administrative remedies authorized or provided pursuant to the provisions of this title.

"(b) The authority of the President under this title includes the right to seek in any Federal court a temporary or permanent injunction, restraining order, or other order against any facility, or the management thereof, or against any other person, to prevent access to, or control of, any sensitive position, place, or area of employment in a defense facility or access to classified information by any person whose access thereto or control thereof has been suspended, denied, or revoked pursuant to the provisions of this title."

(b) Section 3 of title I of such Act is amended by striking out paragraphs (7) and (17).

(c) Section 5 of title I of such Act is amended—

(1) by striking clauses (C) and (D) of subsection (a)(1);

(2) by striking the words "or of any defense facility" from subsection (a)(2); and

(3) by striking subsection (b).

(d) Subsection (k), of section 13 of title I of such Act, is amended (1) by striking the last comma therein between the word "final" and the word "and", (2) by inserting a period in lieu of said comma, and (3) by striking that which follows in said subsection.

Mr. ICHORD (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the first section of the bill be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any amendments to the first section of the bill?

AMENDMENTS OFFERED BY MRS. MINK

Mrs. MINK. Mr. Chairman, I offer two amendments, and, Mr. Chairman, I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

The Clerk read as follows:

Amendments offered by Mrs. MINK: Amend section 402, paragraph (2), to read as follows:

"(2) The term 'defense facility' means any facility designated as such under section 404: *Provided, however,* That with respect to any educational institution only that part thereof which is engaged in a classified military project shall be so designated under section 404."

Amend section 414, at page 19, line 5, by (1) striking the period following the word persons; insert a colon in lieu thereof; and (2) adding the following: *"Provided, however,* That with respect to educational institutions, such area restrictions and prohibitions limiting access shall be limited to those areas of such facilities directly involved in classified military projects."

Mrs. MINK. Mr. Chairman, I rise to offer two amendments to H.R. 14864, the Defense Facilities and Industrial Security Act of 1970.

Under the provisions of this bill, the President is authorized to control access to positions, places, or areas of employment in defense facilities. Facilities however are defined to include, among other things, educational institutions. The President in exercising this authority may consider a person's "present or past membership in, or affiliation or association with any organization, and such other activities, behavior, associations, facts and conditions, past or present, which are relevant."

Clearly, we do not want the President of the United States endowed with the power to prevent students and faculty from access to their own campuses because their university has contracts to do defense research and has been designated a defense facility by the President.

Under the loose provisions of this act, our professors and students would be threatened with denial of their right to enter the campus, to teach, and to obtain an education—for undefined present or past associations, behavior, facts or conditions, whatever they may be.

It is patently absurd to turn loose this massive blunderbuss of Federal thought control onto our Nation's colleges, universities, and other educational institutions. Among distinguished institutions currently having defense studies and which therefore might be subject to the tampering with academic freedom entailed in this bill, are Harvard, MIT, Yale, University of California, University of Wisconsin, Princeton, Dartmouth, and Johns Hopkins University, to name only a few.

A professor at a university would be well advised to watch his statements and associations if this bill became law as it stands. Of course it would be too late to cover up past associations and past conduct. His employment at the "defense facility," that is, his university, could be controlled by the President's military designees, who might conceivably exercise their discretion based on their own whims, political beliefs, or personal prejudices. This is clearly an unwarranted invasion into academic life.

If this bill passes without my amendments I envision our Nation's best colleges and universities turning their backs on further work for the military, lest their students and faculty be subjected to the surveillance practices which are proposed. Who would like to see guards posted at the entrances to these schools and classrooms, denying entrance to any student with anything whatever in his background that the Federal officials deemed suspicious?

My two amendments would limit the

coverage of this bill to only those specific projects on a university campus which are classified military projects. I urge the support of my amendments.

Mr. ICHORD. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman.

Mr. ICHORD. Mr. Chairman, I would point out to the Committee that it was not intended by the members of the committee to give the Department of Defense or the President the authority to declare a whole educational institution a defense facility. Of course, the committee cannot be responsible for any abuse of executive authority that could possibly happen and I think under the terms of the bill, as written, any abuse such as feared by the gentlelady as would be capricious and arbitrary, would be stricken down.

The gentlewoman is concerned that this might happen and I have looked over the amendment offered by the gentlewoman from Hawaii and so far as this side is concerned, I do not think it is particularly necessary, but if there is any fear in this regard, we will accept the amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman.

Mr. ASHBROOK. Mr. Chairman, I would agree 100 percent with what the chairman indicated, that it is certainly not our intent in the act to grant such authority. There is no objection on this side to the amendments offered, and we urge their adoption.

Mr. YATES. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman.

Mr. YATES. I was going to ask the question, What would happen if a Russian professor were invited to deliver a lecture at one of the universities under this bill, would he be banned?

Mrs. MINK. I would hope not. Under the limitation which I have provided in my amendment, the limitation of access would be restricted to that specific area directly concerned with classified military projects.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Hawaii (Mrs. MINK).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Amend section 407 by striking section (b) and inserting in lieu thereof the following:

"(6) an opportunity to cross-examine, either orally or through written interrogatories, persons who have made oral or written statements adverse to the applicant relating to a controverted issue except in cases where the disclosure of such written or oral statements or of the name of any person giving such a statement would be substantially harmful to the national security interests. If opportunity to cross-examine respecting any such oral or written statements is denied, or is to be denied, the head of the department of the United States which initiates or asserts the denial shall summarize the information in such comprehensive and detailed a manner as national security permits and which, to the extent that national security permits, state the reason why any witness' name is withheld, and shall file a petition in the federal district court in the district where the applicant resides petitioning the court to grant an exception to these provisions respecting cross-examination. At any time that applicant has reason to believe that information or witnesses against him are being withheld so as to deny him an opportunity to know the nature of the matter which is being used against him or to face his accuser, he may file a petition in the federal district court where he resides so alleging and praying for appropriate relief. In either case the district court shall determine the question of whether or not full cross-examination in the circumstances would be substantially harmful to the national security interests. If such substantial harm to the national security interests is involved, the court shall devise such proceedings for administration and consideration of evidence, and for cross-examination and process, as may do justice in the premises, protect the national security, and afford to the applicant due process of law."

And by relettering sections 407 (c), (d), (e), and (f) accordingly.

The CHAIRMAN. The gentleman from Texas is recognized in support of his amendment.

Mr. ECKHARDT. Mr. Chairman, I think that we have made progress in that the judicious voices of pragmatism on the side of the committee have replaced the raucous voices of demagogy that at some earlier times may have rung in these Halls.

For those reasons, I appear here, not as an antagonist to the committee, but rather as one who desires to put into the language of the section affected provisions which would, in fact, protect due process and judicial process.

I have not changed the original language in the first sentence substantially. All I have done is to use an item (6), as a qualifying item for finally withdrawing the security clearance. For some reason, in the original form, the right to cross-examine is contained in a separate paragraph and is not stated as a condition to final withdrawal of security clearance.

Then, instead of permitting the exception to cross-examination to be determined ultimately by department heads—we all know department heads are Joe Zilch, who speaks for a department head—instead of having Joe Zilch determine the sensitive question of the right to cross-examine, I have required the department to go into the court and make the same type of presentation with respect to the necessity for withholding information that it may do without any review under the provisions of the existing bill.

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

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

Mr. YATES. In colloquy with the gentlewoman from Hawaii, the chairman of the committee said that neither the committee nor the Congress could be responsible for the actions of department heads. Would not the gentleman's amendment protect in measure against unwarranted action by department heads? As I understand the gentleman's amendment, it would not permit the court to go into the question whether national security were involved if the Government insisted upon that position before the court.

Mr. ECKHARDT. That is precisely correct. I am not asserting that a department head would himself, if he addressed his attention carefully to the question, intentionally deprive one of his right to cross-examine. But I know, as well as all of you know, that when a department head is asked whether or not this matter is a sensitive question that can be brought forward and subjected to cross-examination, he is more likely than not to say that it is sensitive, and that wipes out the whole right of cross-examination with respect to that witness' testimony; it wipes out the right to confrontation; and, in fact, no intelligent, precise attention has been given to the question of weighing security interests against the interest of affording cross-examination.

What my amendment would actually do is to provide a kind of pretrial process to determine what facts can be brought out and under what circumstances. And the court would do it. It would not compel the release, even to the court, of information so sensitive that no one should know it except those engaged in the secret process.

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

Mr. ECKHARDT. I yield to the gentleman from Missouri.

Mr. ICHORD. It is quite difficult to fully understand the thrust of the amendment when it comes before us here on the floor of the House without sitting down and weighing the effect of the language in the light of all the court cases in this field.

Is the effect of the amendment offered by the gentleman to substitute the court for the department head?

Mr. ECKHARDT. Not precisely. The department head could still appear before the court and urge that the matter was too sensitive to be revealed. He might even insist that the information should not be disclosed at all—as, for example, if we were engaged in developing the atom bomb, as we were in Chicago—and the matter was so secret that not even the court should know about it. But if he did so, if he did make such a contention, he would have to do it to the court and, of course, he would be doing it under his sworn statement to the court. He would be considering it seriously, and he would be appearing either as the department head himself or as an agent who could speak responsibly for the department head.

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

Mr. ICHORD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I ask the Committee to vote down the amendment offered by the gentleman from Texas. I asked the gentleman from Texas as to whether his amendment would be substituting the court for the department head as we have provided in the bill. It is rather difficult for me to understand the full thrust of the amendment, but I submit that is exactly what the amendment does—substitute the court for the department head—because the amendment

strikes out all of the language relating to the authority of the department head.

Let me explain to the Members on the floor the situation as it now is. This amendment relates to the protection of the rights of the individual when he is denied access to classified information or when his clearance is removed. This relates to a program that is now in existence, at the present time being operated by the Department of Defense under Executive Order 10865. We have written a legislative base for the program operated under Executive Order 10865, but we narrow considerably the flexibility of the Department of Defense in operating this program and lean more toward the rights of the individual.

The amendment offered by the gentleman from Texas deals with the right of restriction of confrontation of witnesses. The present order even gives the department head—and this is going on at the present time—the right to deny the applicant the right of confrontation of witnesses for any reason that the department head believes to be good and sufficient.

Again this is a matter of weighing the rights of the individual against the security interest of the Nation. I want to make here some legislative history to the effect that we expect the Department of Defense in practically all cases, wherever possible, to permit the applicant to cross-examine witnesses and to be confronted with his accusers. But here we are dealing only with the very exceptional cases. We realize that in some cases the Government would be required to expose its whole intelligence apparatus if it were required to confront the individual with his accusers. So we set up for those very rare exceptions this provision and give the department head—in this case the Secretary of Defense—the right in certain limited cases, to restrict the right of confrontation.

I would point out there is no constitutional requirement of the right of confrontation. The sixth amendment only applies to criminal sanctions, criminal cases. We are dealing here merely with clearances for access to sensitive defense positions and to classified information.

I am greatly concerned that the gentleman from Texas by his amendment might be requiring the Executive to reveal state secrets. I submit that as a matter of constitutional doctrine it would not be constitutional to require the Executive to reveal state secrets to the judiciary. This is a matter of separation of powers.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 5 additional minutes.)

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

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

Mr. ECKHARDT. In answer to the gentleman's last proposition, is the gentleman conversant with the second sentence of the amendment, which says:

> If opportunity to cross-examine respecting any such oral or written statements is denied, or is to be denied, the head of the department of the United States which initiates or asserts the denial shall summarize—

Incidentally, this language was taken from the bill of the able gentleman from Missouri, in precise terms—

> shall summarize the information in such comprehensive and detailed a manner as national security permits

That was in the original bill for the very purpose the gentleman is pointing out here. That was the information that had to be given to the individual if he were not given the documents themselves.

All I have done is require that such a petition be presented to the court. There is nothing in this amendment that requires the executive department to reveal that which it feels is too sensitive to reveal anywhere.

Mr. ICHORD. Let me point out to the distinguished gentleman from Texas that the applicant does have the right of court review under this bill. After he has exhausted his administrative remedies he can go to the courts. If the court finds that due process has been violated, his rights can be corrected.

But here the gentleman is taking away the right of a departmental head to make this decision. He is requiring him to go into the court. How can the court make any better decision at that time than it could later on, after the man had exhausted his administrative remedies?

Mr. ECKHARDT. Will the gentleman yield for me to answer what really is two questions?

Mr. ICHORD. I will yield in just a moment.

How would the court be permitted to make any better decision unless they revealed the particular agent that might be involved?

Mr. ECKHARDT. I believe the answer is this. As I said earlier, actually when an agency is called on either to permit or not to permit the revealing of information gathered upon which the exclusion was based, there is not likely to be attention to this very important question by a high level of administrative authority.

Besides that, the decision that the information is secret or should not be revealed is made and is stated not under oath but on the opinion of whoever in the agency ultimately made the decision. This may go out over the name of the Secretary.

If the matter of whether or not cross-examination is to be denied is a matter which is presented to the court, I believe that this compels the agency to act with candor and with seriousness. The agency may still come in and say, "This is even too sensitive for the court to consider," but I believe in many, many circumstances, when the matter got to the highest level of the agency, the Secretary or his designated authority would not come in and make that contention unless it were really true.

Mr. ICHORD. I cannot see how the gentleman would greatly improve the status of the applicant by requiring the Government to go into court at that particular time. I can see it is a matter of time.

He does have to exhaust his administrative procedural rights.

I am greatly concerned about this. As an example, I remember that just a number of months ago, when I was down at the White House, after the *Pueblo* affair, one of the Cabinet officers said something about a great number of intelligence agents just disappearing off the face of the earth.

This is what I am concerned about: that you might require the Department of Defense to reveal and the President to reveal State secrets, and I do not believe they should be revealed to the courts any more than to the general public.

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

Mr. ICHORD. Yes. I am glad to yield to the gentleman.

Mr. YATES. The committee is rightfully concerned that the Executive order is too strict in denying rights to individuals who may be brought to a hearing under that order.

Mr. ICHORD. But at that point does not the gentleman feel that we have narrowed the right to restrict confrontation of witnesses?

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

(By unanimous consent, Mr. ICHORD was allowed to proceed for 3 additional minutes.)

Mr. YATES. The committee rightfully decided in certain instances an individual who was brought to hearing is entitled to the right of confrontation.

Mr. ICHORD. Right. This is only a very rare exception.

Mr. YATES. Right.

Mr. ICHORD. An exceptional case where the security of the United States is involved.

Mr. YATES. Where questions of national security are involved.

Mr. ICHORD. That is right.

Mr. YATES. In that kind of a case the committee says we will let the department head have complete discretion.

Mr. ICHORD. No, we do not. The gentleman is in error. We do not.

Mr. YATES. What is provided, then?

Mr. ICHORD. The instances in which he may exercise that discretion are set out in the bill.

Mr. YATES. What does that mean?

Mr. ICHORD. Let me ask the gentleman to read section 407(b).

Mr. YATES. I have read the bill. What does it say?

Mr. ICHORD. It says:

> (b) The applicant shall be afforded an opportunity to cross-examine, either orally or through written interrogatories, persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity if—

Under certain circumstances.

We require this to be a decision only made by the department head, that is, the Secretary of Defense.

Mr. YATES. I point out to the gentleman in cases of national security that the department head, even under the language you have just read, has total discretion.

Mr. ICHORD. I should go on and read to the gentleman, and I think I have to go on and read the instances under which

the Secretary of Defense can restrict the right of confrontation:

(1) the head of the department of the United States supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national security interests; or

(2) the head of the department conducting the hearing, or his principal deputy, has preliminary determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and such head of the department, or such principal deputy, has determined that failure to receive and consider such statement would, in view of the level of clearance sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death or severe illness, or because such person is beyond the jurisdiction of the United States and his appearance cannot be compelled, or such person is by law exempt from the command of process and refuses to appear on request, or after due and diligent search such person cannot be found, in which case the identity of the person and the information shall be made available to the applicant, or (B) because such person's appearance and identification may result in grievous bodily harm to him, or members of his family, in which case the information to be considered shall be made available to the applicant.

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

(By unanimous consent (at the request of Mr. YATES) Mr. ICHORD was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. I would also point out that we require that this restriction of the right of confrontation be taken into consideration before making a final decision. Also, a decision adverse to the applicant can only be made by the Secretary of Defense personally. It is very narrowly drawn.

Mr. YATES. I still insist on my original contention that in certain cases of national security where conditions you have just read are met and where there are cases of the death of a witness or the revealing of information would harm the national security that the person is not entitled to delve into the action of the Department head.

Mr. ICHORD. The gentleman is in error. He is entitled to a court review of the action of the Department.

Mr. YATES. A court review of what? What does that entitle him to? It entitles him only to a review by the court of the procedures.

Mr. ICHORD. Right.

Mr. YATES. It entitles him only to question whether or not the Department has followed the processes set forth in the law. That is all he would be entitled to.

Mr. ICHORD. They have to comply with due process requirements in denying his right. Again, this is a matter of balancing the interest of the individual against security interest. There is no constitutional right of confrontation.

Mr. YATES. In my opinion all the Department has to do in responding to court review is to follow the procedures set forth in the statute and, the court will have no jurisdiction.

What the amendment offered by the gentleman from Texas seeks to do is to get a final statement by the executive department on the record before the court that the national security is involved in the case. In that case if the department says, "No, we cannot make this information available," the court cannot require it to be made available. It cannot upset the stated position of the Department.

Mr. ICHORD. I refuse to yield further to the gentleman from Illinois.

I would say this: The amendment which has been offered by the gentleman from Texas would keep the DOD in the courts from here on out if we have learned anything from the experience of the past.

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

Mr. Chairman, I have looked with considerable interest at the amendment which has been offered by the gentleman from Texas because I yield to no man in my belief in the right of confrontation and cross-examination and the importance thereof. If this were a question of a criminal matter—criminal prosecution—there could be no possible question that such a right would have to be unfettered. The Constitution would require it.

We are dealing here with not quite the same thing. We are dealing with the entitlement to a specific type of employment.

The question really is—and I would agree to this extent with the gentleman from Illinois as to who should make the ultimate determination as to what is vital in the national interest in this particular type of case; whether the executive or the courts—there can be no manner of doubt under this amendment that it is left up to the court, completely. If the department head feels that this right of confrontation and cross-examination should not be extended because it may be dangerous to the national defense—this is by reason of revelation which it may involve—under the bill he can determine that. Under the amendment he has to go to court and petition the court to issue an order, an exception, allowing no cross-examination in this case. There is no question about that.

If the individual on the other hand thinks he should have the right of confrontation, he goes to the court and, the amendment says, in either case that the district court shall determine the question. So, there is no question but what the amendment takes that right away from the executive and gives it to the court.

What you have to do is to determine where you think that ultimate power ought to lie in this particular type of case.

I grant you that the Secretary could say to the judge, "This is so important and vital we are not even going to tell you why; that is about all we can do." That does not give the court much to go on. If the court then says, "You have not shown anything and I am not going to make an exception, you are going to have to let this man cross-examine," then that would have to be the case. Then the Executive has two choices. He can either obey the court and take his chances about what the cross-examination may reveal about national defense or he can drop the case and let the employee continue on.

It seems to me, in all due deference, and granted that this is a difficult and very delicate field, that you are coming to a decision here with reference to a matter, not as to whether or not a man goes to jail, but as to whether he is to have access to certain types of employment which give him access to national defense information, and as to whether the ultimate decision, in such a case, will lie with the judiciary or with the executive.

I believe, balancing the situation, that this decision always has lain with the executive, and it has got to lie with the executive. Therefore, much as I admire the right of cross examination, I have to oppose the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

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

Mr. DENNIS. Certainly I will yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I believe that the gentleman has not fully apprehended the meaning of the amendment, although I think that his preface certainly shows great sensitivity to the importance of cross-examination.

The right to assign or reassign the employee to a sensitive job or to another portion of the plant under this amendment still remains with the employer or with the Government. And as the author of the bill, the able chairman of the committee, has explained, there are only a very few cases in which the question of cross-examination is denied. But I submit that in those very few cases, not the question of assignment—I think that should be left to the department head or with the employer—but the question of the right to cross-examination should be determined by the court.

Now, mind you, the court does not necessarily uphold the right to cross-examination. That is not an absolute condition for the person remaining on the assignment, but the court would determine the matter that would be considered and the scope of cross examination.

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

The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 13, noes 37.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MIKVA

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

The Clerk read as follows:

Amendment offered by Mr. MIKVA: On page 8, line 14, strike out all after the word "determined," through and including line 19, and insert in lieu thereof the following: "regarding any such person's illegal activities, and regarding any such person's active membership in any organization engaging in illegal activities, which are relevant to a determination to be made under the provsions

of this section. For the purposes of this subsection, 'active membership' in an organization means such active participation in and support of its activities as evidences a knowledge of the organization's goals and a specific intent to support and further those goals."

Mr. MIKVA. Mr. Chairman, I would like to add my commendation to the chairman of the committee, and to the committee, for seeking very energetically to correct some of the procedural defects that have been obvious in previous procedures dealing with internal security. I think that on the hearing procedure, with the exception of the Eckhardt amendment for which I recently voted, I think the hearing procedures by and large are vastly improved over anything that has ever been offered in an internal security act.

Having said that, however, I think the act fails dismally in what is set forth as one of its important purposes, and that is to meet the conditions of the Court in the Robel case.

You have heard a great deal of discussion about that case. What the case stood for is the proposition that if there are to be standards by which people's conduct is to be proscribed, those standards must be narrow, they must be precise, and they must be weighed on their face—not in terms of how they are actually enforced or applied—but in terms of what they say. The Court said:

It is precisely because that statute sweeps indiscriminately across all types of associations with Communist-action groups, without regard to the quality and degree of membership, that it runs afoul of the first amendment.

Mr. Chairman, I suggest to you that this statute, that is the proposed statute, has that same defect because it says in its proposed wording that "the President may establish criteria" relating to a person's eligibility and authorization for access to, or control of, any such sensitive position regarding any such person's past or present membership in, or affiliation or association with, any organization, and such other activities, behavior, associations, facts, and conditions, past or present, which are relevant.

That is precisely the evil that the Court held in the Robel case could not pass constitutional muster.

My amendment would limit the situations in which the President could establish criteria to those in which there is active, knowledgeable and knowing membership in an organization. Unless it is so narrowly defined, we are again going through the same exercise that the Congress went through in passing the original act.

Unless the decision of the Court is changed by apostasy or death, you are going to have another decision like the Robel case which says you cannot delegate to the President—even to the President—the power to make inquiry, or set criteria of a person's associations, affiliations and membership which might be passive and which are not specifically limited to those which deal with illegal activities in support of the organization that is proscribed.

I suggest to you that under the language that is in the bill, unamended, the President could make inquiry and set criteria having to do with Vietnam war opponents, draft resisters, student activists, civil rights workers, labor organizers or just political partisans.

It is not enough to say that the President would not do that because what the Court said in the Robel case and if this language cannot pass muster on its face, then it is going to go down the drain.

I suggest, Mr. Chairman, if you want a constitutional statute, you will support this amendment.

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

Mr. MIKVA. I yield to the gentleman.

Mr. ICHORD. Mr. Chairman, do I understand that the gentleman believes that the United States against Robel case decided that you can only prohibit an active member of the Communist Party from employment in a defense facility in a sensitive position?

Mr. MIKVA. No, what I said was that you cannot inquire into or proscribe a person's affiliation or association indiscriminately. You have to have standards which would measure those which could be proscribed as against those which could not be proscribed. I suggest that there are no such standards in this bill.

Mr. ICHORD. Let us take a specific case. Section 405 sets up the screening program for both access to sensitive positions in a defense facility and also for access to classified information, confidential, secret, and top secret information.

Section 405(c) lays down some criteria for the Department of Defense in carrying out this screening program.

As I understand the amendment offered by the gentleman from Illinois, this would preclude inquiry into whether the member was an acting member or a passive member.

Does the gentleman from Illinois actually believe that even a passive member, if it is not explained, should have access to top secret information?

Mr. MIKVA. I am suggesting that under the standards you have set forth, the bill runs afoul of the same points as raised in the Robel case.

Let me put it this way, Mr. Chairman: You and I are associated on this bill. That does not mean that we are in agreement on the bill. Association is defined in the bill, and the basis on which the President is allowed to set criteria dealing with associations. The fact that we are on opposite sides would not preclude him from setting a criterion which states that since I was associated with you on this bill, and he did not like this bill, therefore, I could be barred from employment.

That is exactly the evil the Court stated must be struck down. You must set standards for certain kinds of associations.

Mr. ICHORD. The gentleman deals in broad generalities. I remember an old adage which I believe originated in the Mideast somewhere which states that—

Words without deeds are like trees without roots.

You talk of civil liberties and you speak noble concepts and principles about the liberty and the freedom of the individual. I subscribe to those also. But is the gentleman saying that we cannot even look into an association when we are making an investigation to clear an individual for access to top-secret data?

Suppose the individual concerned had been associated with a known spy or saboteur, widely known. Suppose he had been seen drinking with him in several bars, and that he had been seen in several night clubs with such a person. Are you meaning to tell me that the screening board could not inquire into the full ramifications of that association?

Mr. MIKVA. I am saying to you what the Supreme Court has said over and over and over again. When you are dealing with first amendment liberties, the right of association is a first amendment liberty, and you must have narrowly drawn, specifically described guides for the exercise of power. The Supreme Court said it in the Robel case:

It has become axiomatic that precision of regulation, must be the touchstone in an area so closely touching our most precious freedoms.

We have not been given that kind of regulation.

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

Mr. ASHBROOK. Mr. Chairman, I rise in opposition to the amendment. I shall not take the 5 minutes allotted to me. I would ask the gentleman from Illinois to answer a question. I think it is absolutely unbelievable how narrow the amendment would be. Let me ask you one question: If I were a member of the Communist Party, an active member, advocating overthrow of the country 6 months ago, but no longer belonged to the Communist Party, as I read your amendment, former active participation could not even be considered by the screening board, is that correct?

Mr. MIKVA. No, it is not correct. According to the language, that is active membership. It has no proscriptions on it. It would have to be acting, knowing membership. It could not be passive, such as waving to a proscribed organization while they were on parade. It could not be an association which might deal only with the fact that they were walking down the street together.

Mr. ASHBROOK. Suppose a man says, "I am not a member of the Communist Party at the present time. I was 6 months ago. I advocated the overthrow of the country 6 months ago. I am not, therefore, now a member of illegal, subversive organization, nor am I an active member, nor am I advocating overthrow of the country." As I read your amendment, the screening board could not look into that particular activity.

Mr. MIKVA. I can only say again that there is nothing in the amendment which would limit the time or which would put in a statute of limitations as to time. What it does is limit it to active, knowing membership; so you cannot look to innocent associations or affiliations. That was precisely the evil that the court struck down in the Robel case. I say that we would be engaging in an unfruitful exercise in failing to set up such standards. It is not my fault that some

assistant attorney-general does not like the Court decisions in this area. The Court has clearly stated that affiliations and associations cannot be used as a basis for proscription unless you separate the bad from the good, and we have not done so in this bill.

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

The question was taken; and on a division (demanded by Mr. MIKVA) there were—ayes 25, noes 35.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FRASER

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

The Clerk read as follows:

Amendment offered by Mr. FRASER: On page 8, line 19 after the word "section." insert the following: *"Provided*, That nothing in this subsection shall authorize an adverse finding with respect to any person based upon constitutionally sanctioned activities, including, but not limited to, First Amendment rights of free speech, peaceable assembly, and petitioning the Government for the redress of grievances."

The CHAIRMAN. The gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes in support of his amendment.

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

Mr. FRASER. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, will the gentleman provide us with a copy of the amendment?

Mr. FRASER. I will give the gentleman my copy.

Mr. Chairman, this amendment seeks to get at the problem my colleague, the gentleman from Illinois, was trying to get at in a different way just a few minutes ago. One of the problems with the bill as it is now drafted is that section 405, subsection (c) authorizes inquiry into a whole range of matters involving an individual. The language says in effect that it is relevant to inquire into "present or past membership in, or affiliation or association with, any organization, and such other activities, behavior, associations, facts, and conditions, past or present, which are relevant to any determination to be made under the provisions of this section."

Mr. Chairman, that is a very broad statement, a very broad grant of power to give to the executive branch with respect to an inquiry into the life of a person who seeks to have a job. But my amendment is very limited. All it suggests is that the statement contained in this subsection—and I want to emphasize it is just this subsection—does not form a foundation or shall not be construed to be a grant of authority to the executive that an adverse finding with respect to any person may be based on constitutionally protected activities such as free speech, peaceful assembly, and so on.

I emphasize the amendment is limited just to the very broad grant of the language in subsection (c) of section 405. My amendment does not go to the standards which the President may set or the executive branch may set under subsections (a) and (b). That is, the President may establish standards, and we would have to hope they would be carefully drawn standards in accordance with the decisions of the U.S. Supreme Court. But what I want to do is to circumscribe any inference that could be drawn from subsection (c) that constitutionally protected activities standing alone could become a basis for an adverse finding with respect to some individual.

I would like to read from the last part of the letter submitted on behalf of the AFL–CIO in opposition to this bill. Their letter can be found in the record of the hearings, on pages 1335 and 1336, but I shall read only the last five or six paragraphs.

Here is what Mr. Thomas E. Harris, associate general counsel of the AFL–CIO said:

Firm and sensitive Congressional guidance is especially necessary in the area covered by H.R. 12699 because it bristles with substantial First Amendment problems. In this connection, since there can be no doubt that the internal security program has not afforded the right of association the degree of protection the Constitution demands, H.R. 12699 is most disappointing in its failure to require the Executive to comply fully with the principles set out by the Supreme Court in *United States* v. *Robel*, 389 U.S. 258 (1967), and the prior precedents there cited.

He goes on in his statement to point out that in that Supreme Court decision the Court struck down section 5(a)(1)(D) of the Internal Security Act of 1950, which provided that when a Communist-action organization is under a final order of the Subversive Activities Control Board to register, it shall be unlawful for any member of the organization to engage in any employment in a defense facility.

Then he quotes from the Court, as follows:

"[The] concept of 'national defense' cannot be deemed an end in itself. Implicit in the term 'national defense' is the notion of defending those values and ideals which set this Nation apart. For almost two centuries, our country has taken singular pride in the democratic ideals enshrined in its Constitution, and the most cherished of those ideals have found expression in the First Amendment. It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties—the freedom of association—which makes the defense of the Nation worthwhile.

Then Mr. Harris goes on to point out that the bill as drawn does not circumscribe the impact of the legislation in accordance with this Supreme Court decision.

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

(By unanimous consent, Mr. FRASER was allowed to proceed for 2 additional minutes.)

Mr. FRASER. Mr. Harris goes on then to point out that the bill lacks protections to assure that these very fundamental values which we hold most dear are in fact protected.

Going back to my amendment again, all it tries to do is to say that when we give the executive branch this blank check to inquire into anything about a person and his past, that particular authorization should not be construed as permitting an adverse finding with respect to someone based on constitutionally protected activities such as free speech, peaceful assembly, and so on.

So, Mr. Chairman, while this amendment does not go as far as amendments ought to go in trying to protect the American people who may become involved in this machinery of security, it still would provide a modest restraint upon one clause which otherwise reads so broadly as to suggest that anything may be relevant—anything a person ever said, any organization he ever belonged to, any association he ever had, no matter what kind or nature.

It suggests that such a broad grant of authority should not be permitted to impair a person's constitutional rights.

I would hope, Mr. Chairman, because of the modest nature and the limited reach of this amendment, this Committee would find it a useful addition to make this bill more consistent with those standards which I like to think this House adheres to when it deals with these very sensitive matters of security, our national interest and the constitutional rights of our people.

Mr. ICHORD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have just had the opportunity to review the amendment, as the gentleman presented it. As I interpret the amendment, it would prohibit any inquiry—being inserted in the inquiry section of the bill—into a person's attending meeting after meeting of the Communist Party, U.S.A. There is nothing illegal as such about attending such a meeting.

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

Mr. ICHORD. I yield to the gentleman from Minnesota.

Mr. FRASER. I just want to call attention to the fact that this does not attempt to limit the authority to investigate into these matters set out in subparagraph (c).

That kind of inquiry the gentleman just discussed would not be limited, but all we do say is this very broad grant of authority should not be construed as saying the constitutional activities alone could become the basis for an adverse finding. In other words, we do not want the broad grant——

Mr. ICHORD. But the gentleman inserts the amendment in connection with the authorization to the President to establish criteria governing the extent of the inquiry and investigation. That is what concerns me.

Mr. FRASER. It is in that area, because while the President may set out criteria with respect to investigations, we do not want that grant of authority to be construed as providing a foundation for an adverse finding just because of lawful activities by a person.

Mr. ICHORD. I decline to yield any further, because I do want to answer

some of the statements that the gentleman made.

The amendment, coming where it is placed by the gentleman from Minnesota, I feel would have the effect, as I just stated, but I did want to correct what I think may be a misimpression about the position of the AFL–CIO. The gentleman read only a part of the letter of the associate general counsel, one Mr. Thomas E. Harris. It is true that the AFL–CIO, as represented in the letter of Mr. Harris, did state it was opposed to the bill originally drafted, H.R. 12699. Let me read some of the statements from the letter of the AFL–CIO.

The Federation opposes the enactment of HR 12699—

Not H.R. 14864—

We do so, however, with a measure of regret for in many respects this bill is a conscientiously drafted and fair minded attempt to deal with the subject of internal security. As such, it is a significant improvement on its predecessors.

In addition, the sponsors of H.R. 12699 are to be especially congratulated for eschewing the hostile posture toward the labor movement.

The only specific objection of Mr. Harris went to the provision in section 405(a). I think that this was a legitimate objection of labor. 405(a) in the original bill read as follows:

The President is authorized to institute such measures and institute such regulations, standards, restrictions, and safeguards as may be necessary to protect defense facilities against sabotage, espionage, and acts of subversion.

I agree with the position of the AFL–CIO in that respect. There was no limitation upon the steps that the President might take in the original bill H.R. 12699.

But let us look at the language in H.R. 14864. The language now reads:

SEC. 405. (a) To effectuate the purpose of section 404(a), the President is authorized to issue such regulations and to prescribe such procedures as may be necessary for determining eligibility and authorization for access of individuals and for controlling such access.

The only specific objection that I see in the letter of Mr. Harris from the AFL–CIO has been cured.

Now let me state to the Members of this body that I have no way of knowing how——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 2 additional minutes.)

Mr. ICHORD. I have no way of knowing how the AFL–CIO makes up its mind, I say to the gentleman from Minnesota, on political matters, but I do know something about the historical position of the president of the AFL–CIO, President George Meany. He has had an unalterable stance in opposition to totalitarian communism. I have every reason to believe—and I would be greatly surprised indeed if I were to hear from Mr. George Meany to the effect that he was—in opposition to this bill after the change in section 405(a) had been effected. Now, if I am wrong, perhaps the gentleman has a communication from Mr. George Meany. If he does, I wish he would say so.

I think the objections of the AFL–CIO have been cured. I think they had a legitimate objection. I would believe that the AFL–CIO, if they carefully considered the terms of this bill, would support it, now that we have removed their specific objection.

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

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

Mr. YATES. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, I think it is important to note that the objections of the AFL–CIO were not cured insofar as anyone can reasonably apprehend by the changes which were made in the bill with respect to section 405. In the statement of the associate general counsel, speaking for that organization, he referred to the broad language of the associational activities which are encompassed in the language of this bill. As far as I can see and as far as anyone has thus far demonstrated, there has been no curtailment of that broad language. The provisions of the bill are not adequate at this point to take care of these objections.

I might also say that I am aware of the job which the AFL–CIO has done with respect to the threat of communism. I think it is a job which is deeply appreciated by most of us in the United States. The labor movement has done very effective work abroad in seeking to promote the free trade union concept in Latin America, in Africa, and in other areas. It is for that reason that we should give particular weight to their expressions of concern about this legislation. They not only have taken an anti-Communist position, an anti-totalitarian position, if you will, but also have expressed some sensitivity about the need to protect the rights of the American people. They have always been sensitive to the need to preserve these rights. They have stood up for civil rights and human rights as well as civil liberties. I think they have made a good record.

Mr. Chairman, I feel it is important that their letter be read here because I think it deserves the careful consideration of this Committee of the Whole House on the State of the Union.

Mr. Chairman, my amendment does not cure all of these defects. It is a very short and simple amendment. It simply attempts to negate a possible, unfortunate inference from subsection (c).

On that basis, Mr. Chairman, it seems to me that it is a reasonable amendment and one which I thought, perhaps, the chairman of the committee might agree to accept.

Mr. Chairman, I do appreciate the manner in which the chairman of the committee has conducted the debate on this legislation. The gentleman has been generous in allocation of time. I think in many respects the way this committee has gone about its business reflects great credit upon the chairman. However, I think when we have a matter of this kind before us which is not asked for by the administration, we ought to look at it very carefully.

Mr. Chairman, the provisions of the Executive order under which the executive branch today is operating is in my opinion adequate. I think we ought to be as careful as we can when we consider this new proposal.

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

Mr. YATES. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Chairman, I would like to make a couple of quick comments. I was somewhat dismayed at the reference of the chairman of the committee to Mr. Meany, because while I too respect the efforts of the chairman to be fair and judicious in the conduct of the affairs of his committee, it seems to me he made a mistake which has frequently been made in the past of equating opposition to communism with support of any particular legislation which is aimed at subversive activities and the like.

I would not suppose that any Member of this House would want to make any such accusation and I am sure that the gentleman from Missouri (Mr. ICHORD) would agree.

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

Mr. YATES. I yield to the gentleman from Missouri.

Mr. ICHORD. Does the gentleman in some way interpret my remarks as casting aspersions upon the integrity or activities of any Member of this House? I think the gentleman misunderstood me. I would not do that.

Mr. BINGHAM. No. My point is that Mr. Meany is known for his strong opposition to communism.

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

Mr. YATES. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I think the gentleman came in a little late, because what I have stated is that I have cured the objections in the letter from the attorney for the AFL–CIO. Since that objection has been cleared up I have every reason to believe, knowing of the strong position of the president of the AFL–CIO against communism, that he would support this bill.

If the gentleman from New York has any communication to the contrary——

Mr. BINGHAM. No; I have not. I would state to the gentleman from Missouri that I heard the colloquy——

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

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

Mr. BENNETT. Mr. Chairman, the bill before the House today, H.R. 14864, is needed to fill recognized gaps in our internal security laws.

In December 1967, the Supreme Court declared an important section of the

Subversive Activities Control Act unconstitutional. The Court told us that we could not prohibit a member of a Communist organization from being employed in a defense facility if the sole ground for the prohibition is such membership. This decision—United States against Robel—brought to the public's attention the urgent new need for effective legislation to combat subversives in our defense plants.

Thirteen members of the House Armed Services Committee joined me in introducing on February 1, 1968, in the 90th Congress, H.R. 15018, to close this security gap. My bill, the objectives of which were supported by the Department of Defense, was similar to H.R. 15626, which was reported from the committee on July 3, 1968, but not acted upon by the full House.

In the 91st Congress, on the first day of the session, I introduced H.R. 400, identical to the legislation reported in the 90th Congress. I joined with the chairman of the committee in introducing H.R. 12699 and H.R. 14864, similar measures. I congratulate the chairman of the committee and the Committee on Internal Security on bringing it to the House of Representatives.

This is a good bill and it strikes a balance between freedom of expressed political beliefs and the requirements of national security.

The purpose of the legislation before the House today is to make sure our Government has adequate security programs to prevent sabotage and other acts of subversion in our defense facilities.

There is a constant threat from our country's enemies to sabotage vital national production and to commit espionage undermining the U.S. interests. The objective of most of these subversive groups, including the Communist bloc of Russia, Cuba, and Red China, and some of the new movements, is the overthrow of our democratic institutions with the substitution of a totalitarian, communistic, Marxist-Leninist society. Michael Klonsky, the Students for a Democratic Society national secretary, has stated:

> Our primary task is to build a Marxist-Lenin revolutionary movement.

In his testimony before the House Appropriations Committee last year, Federal Bureau of Investigation Director J. Edgar Hoover said:

> Reports from a host of reliable FBI sources clearly indicate no letup on the part of the Communist countries in their intelligence attacks against the United States for the purpose of penetrating our national defense interests.

The legislation before the House instructs the Secretary of Defense to designate as a defense facility those plants which have important classified military projects and produce weapons and programs vital to national security. The President is authorized to initiate a security clearance program for determining eligibility of persons for access to sensitive areas in defense facilities. A security clearance program for the protection of classified information to the U.S. industry would be developed, and cooperative security training and educational programs with industry and labor would be established. Another provision of the bill would allow the institution of a personnel security screening program for the safeguarding of vessels, harbors, ports and waterfront facilities.

Adequate safeguards for an individual's rights are included in the bill, insuring fairness to the individual, as applied by the Supreme Court.

Congress should be entitled to take suitable precautionary measures to exclude persons from sensitive positions, Justice White declared in his dissent on the Robel case. James Madison warned us:

> Security against foreign danger is one of the primary objects of civil society.

Mr. Chairman, we have an obligation to pass legislation protecting our national security. We need a strong program in the Federal Government to protect defense production and classified information, and I believe this legislation would accomplish this.

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

The amendment was rejected.

Mr. HALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to compliment the distinguished chairman of the Internal Security Committee for reporting this timely and much-needed legislation. As a member of the House Committee on Armed Services I have been gravely concerned in regard to the security problems that have developed within our defense plants. There is no doubt that our free and open society will always have such problems. However, the security problem has been more than compounded since the U.S. Supreme Court rendered its decision in United States against Robel. I do not wish to delve into all the various aspects of this decision, but suffice it to say that its effect is to allow subversives to infiltrate and have access to highly classified and sensitive material.

H.R. 14864 would remedy the results of this Court decision. This Defense Facilities and Industrial Security Act of 1970 would establish a personnel security screening program to determine eligibility of individuals for access to, or control of, sensitive positions, places, or areas of employment in designated defense facilities for the safeguarding of such facilities against sabotage, espionage, or acts of suversion. I feel confident, Mr. Chairman, that this new screening procedure will meet the constitutional tests as enunciated by the Supreme Court. My belief is predicated on Chief Justice Warren's majority opinion where he felt that the Robel case does not bar Congress, under narrowly drawn legislation, from keeping those persons from sensitive positions in defense facilities who would use their position to disrupt the Nation's production facilities.

How much better to have the right to withhold classified security information in the national interest.

Finally, Mr. Chairman, the burden and duty has been placed upon the Congress to protect the vital security and interests of this great country. We must not fall short in performing what is required of us. Therefore, I strongly urge the passage of H.R. 14864. We owe nothing less to the American people as their elected representatives.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. Section 1 of title II of the Act of June 15, 1917 (50 U.S.C. 191), is amended as follows:

(1) The last paragraph of such section is amended by striking out the period at the end of subparagraph (b) and inserting in lieu thereof a comma and the following: "and for such purposes the President shall have authority (1) to deny to any person, or to revoke or suspend any person's authorization for, access to vessels, harbors, ports, and waterfront facilities of the United States, (2) to establish criteria and to authorize inquiries, investigations, hearings, and proceedings for determining eligibility for access authorization in such manner and form (and to the extent the President deems appropriate) as he is authorized to prescribe under the provisions of title IV of the Internal Security Act of 1950, and (3) at any designated place and at any stage of any inquiry, investigation, hearing, or proceeding authorized for such purposes, to administer oaths or affirmations and, for good cause shown, and subject to such regulations and limitations as he shall prescribe, to issue process (running to any part of the United States and its possessions, including the Commonwealth of Puerto Rico) to compel witnesses to appear and testify or produce papers or material. No person, on the ground or for the reasons that testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture, shall be excused from testifying or producing papers or material, but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he, after claiming such privilege against self-incrimination, shall be compelled to testify, or produce papers or material, nor shall testimony or evidence, so compelled, nor any fact or information which may be discovered as a result of such testimony or evidence, be used as evidence in any criminal proceeding against him in any court; but no natural person so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying. Any of the district courts of the United States within the jurisdiction of which such inquiry, investigation, hearing, or proceeding is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear (and produce books and material if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. Witnesses subpenaed or called to testify or produce evidence at any inquiry, investigation, hearing, or proceeding are authorized travel expenses and per diem as provided by law for witnesses in courts of the United States. The President may, in accordance with such regulations as he shall prescribe, provide that such fees and expenses of witnesses subpenaed or called by or on behalf of the applicant shall, under certain equitable circumstances and in the interest of justice, be borne in whole or in part by the United States: *Provided, however,* That if the applicant be the prevailing party, such fees and expenses shall be borne in whole by the United States."

Mr. ICHORD (during the reading). Mr. Chairman, I ask unanimous consent that

the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

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

Mr. Chairman, I will not take the full 5 minutes. I do want to say, in response to the comments of the committee chairman just now, that I was indeed present during the debate earlier, and I did hear the letter read by the gentleman from Minnesota (Mr. FRASER), and the remarks of the chairman with respect to it.

Also I should like to make this general comment. While I respect the chairman and members of the committee for their efforts to correct some of the abuses in the past, listening to the debate and reading the reports and the material about this bill have confirmed my view that a bill of this kind, which raises extremely complex and difficult questions of constitutional law, should be within the jurisdiction of the Committee on the Judiciary. I would wish that we had here available the views of the Committee on the Judiciary, and the distinguished jurists who sit on that committee, to help us in the consideration of this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14864) 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, pursuant to House Resolution 792, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. REID OF NEW YORK

Mr. REID of New York. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. REID of New York. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. REID of New York moves to recommit the bill, H.R. 14864, to the Committee on Internal Security.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. 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. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 274, nays 65, not voting 93, as follows:

[Roll No. 9]

YEAS—274

Abbitt	Davis, Ga.	Henderson
Abernethy	Davis, Wis.	Hicks
Adair	de la Garza	Hogan
Albert	Delaney	Hosmer
Alexander	Dellenback	Hull
Anderson, Ill.	Denney	Hungate
Anderson, Tenn.	Dennis	Hunt
	Derwinski	Hutchinson
Andrews, Ala.	Devine	Ichord
Andrews, N. Dak.	Dickinson	Jacobs
	Dingell	Jarman
Arends	Donohue	Johnson, Pa.
Ashbrook	Dorn	Jonas
Aspinall	Dowdy	Jones, Ala.
Baring	Downing	Jones, N.C.
Beall, Md.	Dulski	Jones, Tenn.
Belcher	Duncan	Kazen
Bennett	Dwyer	Kee
Betts	Edmondson	Keith
Biaggi	Edwards, Ala.	King
Biester	Edwards, La.	Kleppe
Boggs	Erlenborn	Kyl
Bray	Eshleman	Kyros
Brinkley	Evans, Colo.	Landgrebe
Brock	Fallon	Landrum
Brooks	Feighan	Langen
Broomfield	Fish	Latta
Brotzman	Fisher	Lennon
Brown, Mich.	Flood	Long, La.
Brown, Ohio	Flowers	Long, Md.
Broyhill, Va.	Flynt	Lujan
Buchanan	Ford, Gerald R.	McClory
Burke, Mass.	Foreman	McClure
Burleson, Tex.	Fountain	McCulloch
Burlison, Mo.	Frey	McDade
Burton, Utah	Fulton, Pa.	McDonald, Mich.
Bush	Fuqua	
Byrnes, Wis.	Galifianakis	McEwen
Cabell	Garmatz	McKneally
Caffery	Gaydos	McMillan
Camp	Giaimo	Madden
Carter	Gibbons	Mahon
Casey	Goldwater	Mailliard
Cederberg	Gray	Mann
Chamberlain	Green, Oreg.	Marsh
Chappell	Griffin	Mathias
Clancy	Gross	May
Clausen, Don H.	Grover	Melcher
	Gubser	Meskill
Clawson, Del	Gude	Michel
Cleveland	Hagan	Miller, Ohio
Collier	Hall	Minish
Collins	Halpern	Mizell
Colmer	Hammer-schmidt	Montgomery
Conable		Morgan
Corbett	Hanley	Morton
Coughlin	Hanna	Murphy, Ill.
Cowger	Harsha	Murphy, N.Y.
Crane	Harvey	Myers
Daniel, Va.	Hastings	Natcher
Daniels, N.J.	Hechler, W. Va.	Nedzi
Nelsen	Roe	Talcott
Nichols	Rogers, Colo.	Taylor
Olsen	Rogers, Fla.	Teague, Tex.
O'Neal, Ga.	Rooney, Pa.	Thompson, Ga.
Passman	Roth	Thomson, Wis.
Patman	Roudebush	Ullman
Patten	Ruppe	Utt
Pelly	Ruth	Vigorito
Perkins	Sandman	Waggonner
Pettis	Satterfield	Wampler
Philbin	Saylor	Watkins
Pickle	Schadeberg	Watts
Pirnie	Scherle	Weicker
Poage	Schwengel	Whalley
Poff	Scott	White
Preyer, N.C.	Sisk	Whitehurst
Price, Ill.	Slack	Whitten
Price, Tex.	Smith, Calif.	Widnall
Pryor, Ark.	Smith, Iowa	Wiggins
Pucinski	Smith, N.Y.	Williams
Purcell	Snyder	Wilson, Charles H.
Quie	Springer	
Quillen	Stafford	Wold
Railsback	Staggers	Wright
Randall	Stanton	Wydler
Rarick	Steed	Wylie
Reid, Ill.	Steiger, Ariz.	Wyman
Reifel	Steiger, Wis.	Yatron
Rhodes	Stephens	Young
Riegle	Stubblefield	Zablocki
Roberts	Stuckey	Zion
Robison	Sullivan	
Rodino	Symington	

NAYS—65

Addabbo	Ford, William D.	Mosher
Ashley		Nix
Barrett	Fraser	O'Neill, Mass.
Bingham	Friedel	Ottinger
Blatnik	Gilbert	Pike
Boland	Gonzalez	Rees
Bolling	Green, Pa.	Reid, N.Y.
Brasco	Harrington	Reuss
Burton, Calif.	Helstoski	Rooney, N.Y.
Button	Holifield	Rosenthal
Byrne, Pa.	Johnson, Calif.	Roybal
Carey	Kastenmeier	Ryan
Celler	Koch	St Germain
Chisholm	McCarthy	Scheuer
Clay	McFall	Thompson, N.J.
Cohelan	Macdonald, Mass.	Tiernan
Culver		Vanik
Diggs	Matsunaga	Waldie
Eckhardt	Meeds	Whalen
Edwards, Calif.	Mikva	Wyatt
Eilberg	Miller, Calif.	Yates
Farbstein	Mink	
Foley	Morse	

NOT VOTING—93

Adams	Goodling	Moss
Anderson, Calif.	Griffiths	Obey
	Haley	O'Hara
Annunzio	Hamilton	O'Konski
Ayres	Hansen, Idaho	Pepper
Bell, Calif.	Hansen, Wash.	Podell
Berry	Hathaway	Pollock
Bevill	Hawkins	Powell
Blackburn	Hays	Rivers
Blanton	Hébert	Rostenkowski
Bow	Heckler, Mass.	St. Onge
Brademas	Horton	Schneebeli
Brown, Calif.	Howard	Sebelius
Broyhill, N.C.	Karth	Shipley
Burke, Fla.	Kirwan	Shriver
Clark	Kluczynski	Sikes
Conte	Kuykendall	Skubitz
Conyers	Leggett	Stokes
Corman	Lipscomb	Stratton
Cramer	Lloyd	Taft
Cunningham	Lowenstein	Teague, Calif.
Daddario	Lukens	Tunney
Dawson	McCloskey	Udall
Dent	MacGregor	Van Deerlin
Esch	Martin	Vander Jagt
Evins, Tenn.	Mayne	Watson
Fascell	Mills	Wilson, Bob
Findley	Minshall	Winn
Frelinghuysen	Mize	Wolff
Fulton, Tenn.	Mollohan	Zwach
Gallagher	Monagan	
Gettys	Moorhead	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Annunzio against.

Mr. Shipley for, with Mr. Hawkins against.

Mr. Bevill for, with Mr. Brown of California against.
Mr. Martin for, with Mr. Leggett against.
Mr. Adams for, with Mr. McCloskey against.
Mr. Evins of Tennessee for, with Mr. St. Onge against.
Mr. Fulton of Tennessee for, with Mr. Corman against.
Mr. Gettys for, with Mr. Conyers against.
Mr. Sikes for, with Mr. Dawson against.
Mr. Rivers for, with Mr. Lowenstein against.
Mr. Broyhill of North Carolina for, with Mr. Moss against.
Mr. Winn for, with Mr. Podell against.
Mr. Cramer for, with Mr. Powell against.
Mr. Bob Wilson for, with Mr. Stokes against.
Mr. Watson for, with Mr. Wolff against.

Until further notice:

Mr. O'Hara with Mr. Ayres.
Mr. Pepper with Mr. MacGregor.
Mr. Daddario with Mr. Lukens.
Mr. Dent with Mrs. Heckler of Massachusetts.
Mr. Blanton with Mr. Berry.
Mr. Howard with Mr. Conte.
Mr. Monagan with Mr. Taft.
Mr. Moorhead with Mr. Esch.
Mr. Fascell with Mr. O'Konski.
Mr. Gallagher with Mr. Minshall.
Mr. Hamilton with Mr. Lloyd.
Mr. Haley with Mr. Lipscomb.
Mr. Mills with Mr. Horton.
Mr. Hathaway with Mr. Kuykendall.
Mr. Hays with Mr. Bell of California.
Mr. Kluczynski with Mr. Blackburn.
Mr. Van Deerlin with Mr. Pollock.
Mr. Brademas with Mr. Skubitz.
Mr. Clark with Mr. Goodling.
Mr. Karth with Mr. Schneebeli.
Mr. Kirwan with Mr. Mize.
Mr. Anderson of California with Mr. Mayne.
Mr. Tunney with Mr. Sebelius.
Mr. Udall with Mr. Burke of Florida.
Mr. Obey with Mr. Findley.
Mrs. Griffiths with Mr. Bow.
Mrs. Hansen of Washington with Mr. Cunningham.
Mr. Rostenkowski with Mr. Teague of California.
Mr. Mollohan with Mr. Shriver.
Mr. Frelinghuysen with Mr. Hansen of Idaho.
Mr. Stratton with Mr. Vander Jagt.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ICHORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include extraneous matter on the bill just passed.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. GERALD R. FORD. Mr. Speaker, I have taken this time for the purpose of asking the distinguished majority leader the program for next week.

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

Mr. GERALD R. FORD. I yield to the distinguished gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, in response to the inquiry of the distinguished minority leader, we have finished the business for the week, and we will ask to go over until Monday upon the announcement of the program.

Mr. Speaker, Monday is Consent Calendar Day. There will be one suspension, a House joint resolution, making continuing appropriations for fiscal year 1970.

Tuesday is Private Calendar Day.

For Wednesday and the balance of the week we have the bill H.R. 12025, the National Forest Timber Conservation and Management Act of 1969, which is under an open rule with 2 hours of debate.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time, and any further program will be announced later.

Mr. GERALD R. FORD. Mr. Speaker, I would like to ask the distinguished majority leader when he believes the HEW-Labor OEO appropriation bill, not the continuing resolution, will be on the floor of the House? It seems to me there is time in the legislative program for next week as announced here, and it is important to get that legislation on its way. Any information the distinguished gentleman from Oklahoma could give us would be appreciated.

Mr. ALBERT. Mr. Speaker, if the distinguished gentleman will yield further, of course we have been in consultation with the distinguished chairman of the Committee on Appropriations, and as the chairman is present I would prefer that he comment upon this.

Mr. MAHON. I would say to the distinguished gentleman that we had hoped to find a way to bring before the House early next week an acceptable substitute for the Labor-HEW appropriation bill which was passed earlier but which the President vetoed and which the House failed to repass yesterday. But there just simply has not been enough time to determine whether or not there can be a meeting of the minds among the interested Members of Congress—and we are all interested, as to what should be done about the matter of a new bill.

The members of the Subcommittee on Labor-HEW appropriations have been meeting informally most of the day. We have a meeting of the subcommittee scheduled for 10 o'clock on Monday next. We have also been in consultation with members of the Executive Branch in regard to the situation as well as with the leadership on both sides of the aisle today. So it seems to me under all the circumstances that we should on Monday pass a continuing resolution to put us in a better stance, and then launch immediately into a way to bring before the House a substitute for the vetoed bill. The present continuing resolution expires on January 30.

I would hope that we could move rapidly, but I do not think anybody can predict how long it will take to bring in a substitute bill. Certainly, the Committee on Appropriations wants to move as fast as possible to get this behind us so that we can take up proposals for new appropriations in the President's budget which will be submitted on Monday.

Mr. GERALD R. FORD. I share the views expressed by the chairman of the Committee on Appropriations, that we want to get this out of the Committee on Appropriations and we want to get it through this body so that the other body can act on it so we can find an answer to the dilemma that we are in at the present time.

As I look at the schedule here for next week, next week is an ideal time for us to do just that.

Let me ask the majority leader, is it possible to include in the whip notice for next week the possibility that such legislation might be brought to the floor for this appropriation bill?

Mr. ALBERT. In answer to the distinguished gentleman, we do make always the reservation that any program may be announced later. There is no disposition so far as I know on the part of anybody to delay the consideration of that bill. I would prefer not to list it on the whip notice until I am certain that it is going to come up next week. I hope it does. That is all I can say to the distinguished gentleman.

Mr. GERALD R. FORD. Let me ask the distinguished chairman of the Committee on Appropriations another question.

Any continuing resolution that is programed for Monday would have to be a different kind of continuing resolution than the one we have had in the past, because one of the criteria in the past has been the bill passed by the House. There is no bill passed by the House under the current circumstances. Can the gentleman give us some information as to what you are thinking of in the drafting of that continuing resolution?

Mr. MAHON. Mr. Speaker, if the gentleman will yield, I think we would be tying the new continuing resolution to the action taken last November when the current continuing resolution first went into effect. We provided a certain spending level for all agencies and especially an innovation in regard to educational programs which have been embraced in the so-called Joelson amendment. That is the type of resolution I think we would propose. In other words, we have proposed a continuation of the resolution which had been in existence prior to the veto of the President's bill.

Mr. GERALD R. FORD. I am sure the distinguished chairman knows that a continuing resolution that follows that pattern is contrary to the action taken by the House yesterday in sustaining the President's veto.

We do not believe a continuation of spending in the month of February at that level is right. If the decision of the chairman or the committee is that that should be the case, and with no promise that we are going to get a bill out of the committee that has some different pro-

visions from the bill that was vetoed, with the veto sustained, we have to take into consideration what we can do to get some changes.

Mr. MAHON. Undoubtedly we have to make some changes in whatever new bill is reported. The Committee on Appropriations is very anxious to work out changes that will be reasonable and acceptable to the House and, hopefully, acceptable to the other body and the Administration.

Mr. GERALD R. FORD. The situation is such that if it comes up under suspension, an affirmative two-thirds vote would be required. We have to have some assurance by Monday of some committee action before we can say that we are going to support a continuing resolution under the terms the gentleman has described.

Mr. MAHON. If the gentleman will yield further, I understand the ranking minority member of the Committee on Appropriations (Mr. Bow) is out of town. I have conferred with others who are authorized to speak in his stead. They can acquaint the gentleman from Michigan with the fact that we are striving mightily to come to some sort of agreement. We recognize that we have to make some kind of accommodation in the light of the circumstances.

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

Mr. GERALD R. FORD. I yield to the gentleman from Illinois, a member of the committee.

Mr. MICHEL. I would like to make it abundantly clear, so far as I am concerned, I have expressed myself as being opposed to continuation for another 30 days or another month of spending at this high level, which the President himself has opposed, and the action of the House yesterday, I think, concurs with. Frankly, another 30 days takes us two-thirds of the way through the fiscal year, and we know there are those who frankly would just as soon that we go through the balance of the fiscal year with continuing resolutions. I think we have got to have it unmistakably clear that we will not engage in that kind of game here, and we must get some kind of commitment.

As our leader has said, next week is an appropriate time to consider the matter, and there is no reason why we should not bring everything to bear to get something firmly in hand for next week.

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

Mr. GERALD R. FORD. I yield to the Chairman of the Appropriations Committee.

Mr. MAHON. The gentleman from Illinois has been present in various meetings that we have had today, and is expected to be present Monday.

It is abundantly clear that there is a feeling of great urgency with regard to the whole matter, and there is a desire to move as rapidly as possible. I do not think there is any indication of unnecessary delay. In fact, I was hopeful that we could come to some arrangement today, but it has not been possible to have a meeting of the minds.

Mr. GERALD R. FORD. The only way we can get a meeting of the minds is to press for action on the basis that the matter is urgent. I know that meetings and discussions have been held today, but I do not want the opportunity to slip by so that, in effect, we would nullify the action of the President with his veto and action of this body yesterday.

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

Mr. GERALD R. FORD. I yield to the majority leader.

Mr. ALBERT. I think the gentleman should bear in mind that we are not undertaking to pass the proposed continuing resolution as a delaying device. We hope to get the appropriation bill itself through the House as soon as possible. But it must still pass the other body, and perhaps even go to a conference. We do have the Lincoln Day recess ahead of us. We are merely trying to take into account all contingencies. That is all we are endeavoring to do. The leadership cannot preempt the jurisdiction of the Committee on Appropriations. The chairman has been working on this matter ever since the vote yesterday.

Mr. GERALD R. FORD. I should like to make a suggestion to the gentleman from Oklahoma, the distinguished majority leader, and I do not make the suggestion because of any allegation that there is any desire to delay, on the one hand, or as an alternative to go the continuing resolution route for the rest of the fiscal year.

I think we need some protection, and here is a suggestion. Why not make the continuing resolution to February 15? Then we know that between now and then there will be some action out of the Committee on Appropriations, and then we have the assurance that a bill will come up and will go to the other body. Then if there is need for another 15 days after that, we would certainly be accommodating. Is there any difficulty with that?

Mr. ALBERT. I should think the gentleman would want 30 days, but this is something that is not within the power of the majority leader to decide. The matter of a suspension is one for the Speaker and the Member who is recognized for the motion to suspend the rules—in this case, it would be the chairman of the Committee on Appropriations.

Mr. HUNGATE. Mr. Speaker, will the distinguished minority leader yield?

Mr. GERALD R. FORD. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, I want to ask a question of the majority leader if I may at this time. Would it be in order, if the President desired, to veto the continuing resolution?

Mr. ALBERT. Of course, he can veto the continuing resolution.

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

Mr. GERALD R. FORD. I yield to the distinguished Speaker.

Mr. McCORMACK. Mr. Speaker, it seems to me it is of paramount importance to get the continuing resolution through. That concerns every Member of the House, because if we do not act on that matter, in about a week or 10 days there will be very sad results flowing from that failure. In addition to the Federal employees who will not be able to receive their salary checks, all the programs or activities covered by the Labor-HEW appropriation bill will be adversely affected.

The distinguished gentleman from Michigan made a suggestion about providing 15 days or thereabouts as an extension. I respect my friend's views, but it seems to me a 30-day extension of the continuing resolution would be in our own best interest, without regard to the side of the aisle on which we might sit. The chairman of the Appropriations Committee has been working very diligently, I can assure the gentleman, as have the chairman of the subcommittee and the other members of the subcommittee and the full committee on both sides.

However, we have to be very practical. We realize that when the bill comes out it will take some debate, according to the procedure under which it is considered, and it must then go to the other body. It would seem to me that a continuing resolution for 15 days would be unwise, because the Appropriations Committee is going to do everything possible to get a bill out, and the leadership will cooperate in bringing it up at the earliest possible date for consideration. We cannot control what might take place in the other body, but we will do everything we possibly can.

We have a situation where the chairman and the members of the Appropriations Committee are working very hard to get a bill out, but it is vitally important to pass the continuing resolution. It seems to me we must take care of first things first. That is why we are putting it down for consideration under suspension of the rules on Monday. I agree with the resolution the chairman of the committee has indicated he will offer. I think it is a fair one. I hope that is the one he will submit, and I hope Members on both sides of the aisle will vote to pass the resolution. If the resolution fails to receive the necessary two-thirds vote, the results that flow from that would be unnecessarily drastic. It seems to me the first step we have is to consider the responsibility of both parties and of Members on both sides of the aisle to assure a continuation of the programs covered by the Labor-HEW appropriations bill.

Mr. GERALD R. FORD. Mr. Speaker, there is an urgency to get this matter settled once and for all. I believe the atmosphere is such that we can achieve a reasonable and responsible compromise. I bring the matter up because we have time next week to do something about it in light of the legislative program that has been announced here, and also, the atmosphere being what it is, I think it is now time to try to get committee action on this matter.

If we could have some assurance that the committee is going to act Monday and that if they do there would be programing, this would ease our fears very greatly.

Mr. ALBERT. If the gentleman will yield, Mr. Speaker, there will be every effort to program the appropriation bill just as soon as it is ready and sufficient notice can be given to the Members, which, in view of the colloquy we have had today and in view of the whip notice itself, should not require very many days.

Mr. GERALD R. FORD. The gentleman from Oklahoma knows when he tells me that, that is assurance enough we will act in good faith in trying to get the matter out of the committee and on the floor. I did think it important to bring the matter up and to try to clarify it here today.

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

Mr. GERALD R. FORD. I yield to the distinguished Speaker.

Mr. McCORMACK. I believe the colloquy which has taken place is very helpful and very constructive.

In connection with the period of time the continuing resolution would be extended, might I refresh my friend's memory that Lincoln's birthday is just around the corner. The leadership has agreed that the House, out of respect for Lincoln, who would be a great Democrat today if he were alive——

Mr. GERALD R. FORD. Mr. Speaker, I heard that speech before.

Mr. McCORMACK. Yes; and it is true. We have agreed that there will be no business from the close of the House on Tuesday, February 10, until the following Monday, February 16. I just call attention to that—I know my friend had overlooked it temporarily—in connection with the resolution to continue appropriations.

Mr. GERALD R. FORD. Mr. Speaker, I would merely say, first, we appreciate the willingness on the part of the Speaker and the leadership on the other side to help us recognize a great President of the United States. Second, I believe the dates the Speaker indicated indicate quite clearly that we have time to bring the matter up in the House and to finish the bill on the other side prior to February 10. All I am urging is that we do it if we can next week. I believe it is important to do so.

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

Mr. GERALD R. FORD. I yield to the gentleman from Illinois.

Mr. ARENDS. I appreciate the gentlemen yielding to me.

I speak now as just one Member of this fine body. My only hope is that by Monday there will be some indication of the kind of compromise we might expect on the resolution when it comes up for discussion. Whether we can get a finality on it or not is another thing.

I hope there will be some indication, Mr. Speaker, that along the way this is going to be the resolution of reasonable men sitting down and saying, "The period of compromise has come; now let us have it."

Mr. McCORMACK. If the gentleman means, by compromise, capitulation, then there is a matter of disagreement.

ADJOURNMENT TO MONDAY, FEBRUARY 2, 1970

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore (Mr. SYMINGTON). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

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

There was no objection.

AUTHORITY FOR CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Monday next the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

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

There was no objection.

THE 1970 CENSUS

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

Mr. CHARLES H. WILSON. Mr. Speaker, as this House knows, the 1970 decennial census of the United States begins this coming April 1. It is my purpose here to provide to the Members a summary description of the new procedures developed by the Bureau of the Census in their efforts to ensure a more complete and accurate census than has ever been enumerated previously.

It is important, I believe, to point out that these new procedures were developed because the Census Bureau—as a truly professional organization dedicated to the continuing improvement in the quality of its statistical output—is its own severest critic. These procedures were developed to overcome an under-enumeration in the 1960 census, which the Census Bureau reported on the basis of its own studies to be approximately 3 percent nationwide, concentrated in the largest cities, especially in predominantly black areas.

Recently some of my colleagues have been critical of the planned procedures for taking the Census in our metropolitan areas—particularly in those areas where our minority citizens live. The concern of my colleagues is indeed understandable, it is a concern I share. In my own 31st Congressional District of California I represent a large black population whose fears and apprehensions I can fully understand; nevertheless, I know that it is imperative that they be accurately counted.

Additionally, as chairman of the Census and Statistics Subcommittee, I am familiar with the Census Bureau's efforts to overcome the potential under-enumeration problems of the 1970 census. Because of my interest and concern I have formally requested the Secretary of Commerce and the Director of the Bureau of the Census to provide me with statements covering the Census Bureau's community and publication information programs and the procedures to be used to insure coverage in the census of minority groups—particularly in the large cities. Their replies are set forth at the conclusion of this statement. I have also attached a list of the test censuses conducted by the Census Bureau in preparation for the 1970 census. These test censuses were designed to perfect and verify the effectiveness of the new procedures being developed for 1970. They began in August 1961 and were not completed until September 1968. They covered a population of almost 2,800,000 persons in 20 different cities located in various parts of the country.

In 1970, the census will be conducted by mail in the larger metropolitan areas—covering about 60 percent of the population of the United States. The heart of a successful census of this type is the understanding and cooperation of the public. In my latest newsletter I have alerted my constituents to the importance of being counted in the census. Because of its relevance, and because I have already urged the distinguished Members of this body to consider utilizing their newsletters similarly, I wish to read it now. It is entitled, "You Must Be Counted If You Want To Count":

YOU MUST BE COUNTED IF YOU WANT TO COUNT!

As you know, the House Subcommittee on Census and Statistics, of which I have the honor to be Chairman, recently completed an exhaustive review of the forthcoming 1970 Census of Population and Housing. The bill we developed—H.R. 12884, to guarantee the confidentiality of the Census—has passed the House and is now awaiting Senate action. It further insures the privacy of Census information without any exceptions whatsoever.

The Census begins on April 1, 1970. Much of the information-gathering will be done by mail and I want to point out to everyone how important it is to respond to the questionnaire when it arrives. The Census provides the statistics which are the basis for your

elected representation and for hundreds of Government programs which benefit you directly.

Ethnic and minority groups should be especially concerned with giving the Census their careful attention, in order that all groups will be fully and fairly represented in the years ahead. If you are uncounted you will be unheard, and underrepresentation or the underfunding of needed Government programs is the last thing our minorities need in these difficult times.

Billions of dollars in funds, goods and services from the Federal Government are allotted on the basis of Census information, as is the number of local, state and Federal representatives you will have. The Census is not some sort of "plot" and the information is absolutely confidential—my Subcommittee's bill sees to that. So I urge you to spread the word and make sure that you and your neighbors are not left out. Be counted so you will count!

The other essential ingredient of a mailout/mailback census is the completeness of the address listings which are being used. Here the Census Bureau, with the wholehearted cooperation of the Post Office Department has been able to produce a better base for counting the population than has ever existed heretofore. The outline of the procedures which have been developed follow. I want particularly to call your attention to the special listing, which begins next month, February, of the inner-city portions of some 20 large cities to make certain that the address registers for these difficult areas are complete and correct.

With the goodwill and cooperation of all, the 1970 census can be the most accurate ever enumerated.

The aforementioned materials follow:

OUTLINE OF PROCEDURE FOR PREPARING THE ADDRESS REGISTER AND MAILING LIST FOR THE 1970 CENSUS

February–September 1969: Approximately 35 million commercially purchased addresses were checked for completeness and accuracy by local postal carriers (more than 10 million of these addresses had also been checked previously during 1967 and 1968 in connection with some special surveys being conducted at that time by the Census Bureau).

2. March–December 1969: The 35 million addresses were corrected and up-dated on the basis of the postal carriers' information, coded to indicate geographic location, and serialized for enumeration control.

3. December 1969–February 1970: The 35 million addresses are then printed as follows: (1) a control register of addresses for each enumeration district and (2) individual address labels which are affixed to the census questionnaire mailing pieces.

4. September 1969–February 1970: Approximately 8 million additional residential addresses are being listed by census personnel to obtain complete mail coverage in areas, which were only partially covered by the commercially-purchased addresses. A control register of these addresses is also made of each enumeration district and appropriate questionnaire mailing pieces are prepared.

5. February 1970: In addition to the above operations, in the inner-city portions of 20 large cities, enumerators will make a structure-by-structure listing, *including the living quarters within each structure*, covering about 7 million addresses, to make certain that the address registers for these "difficult" areas are complete and correct. New addresses and missed addresses will be added to the address registers and the appropriate questionnaire mailing pieces.

6. February 25–March 5, 1970: All questionnaire mailing pieces, now totalling 43 million, will be turned over to the Post Office Department.

7. March 11, 1970: All 43 million mailing pieces will again be checked by the letter carriers to make sure that each address on his route has been accounted for. The letter carriers will inform the local census office of missing addresses, if any, which will then be added to the address registers and the appropriate mailing pieces prepared.

8. March 28, 1970: All 43 million mailing pieces will be delivered and the letter carriers will inform the local census office of any address for which they have no questionnaire mailing piece. These addresses, if any, will be added to the address register and the appropriate mailing pieces mailed out.

Undeliverable mailing pieces (if any) are returned to the Census Bureau for review and action as required.

9. April 1970: Every householder is asked to note on his questionnaire how many other households live at this same street address. Cases where a householder indicates that more units exist for this same street addresses than are listed in the address register will be followed up and any extra households discovered by this check will be enumerated also.

The enumerator must receive a completed questionnaire for every unit on his address register except for those units which may no longer exist.

And finally, upon completion of the census in each area, a "Were You Missed" Form will be published in the local newspaper to provide individuals who think they may not have been counted with a convenient way to notify the Census Bureau so that action to include them in the census can be taken as necessary.

DECEMBER 16, 1969.

Hon. CHARLES H. WILSON,
House of Representatives, Chairman, Subcommittee on Census and Statistics, Committee on Post Office and Civil Service, Washington, D.C.

DEAR MR. WILSON: In accord with your recent request to know more about the Census Bureau's community and public information program looking towards a successful count next year in the 1970 Census, I am sending to you the attached summary of steps already taken and some of our plans for the coming months.

We would welcome any comments you have at this time. We also look forward to your continued interest in our efforts to carry to success the intensive planning and testing that have gone into the 1970 Census.

With best wishes.

Sincerely,

MAURICE H. STANS.

PUBLIC INFORMATION PROGRAM FOR THE 1970 CENSUS

Effective public information programs offer greater rewards in the 1970 census than in any previous decennial census, principally because more than 60 percent of the population will be asked to fill out and return their questionnaires by mail. Even though census enumerators will be prepared to collect in person census reports that are not filed by mail, the level of public cooperation and response to the mail-back plan has a substantial bearing on the cost and efficiency of the census. The Census Bureau estimates that each percentage point in the rate of mail response affects census costs by $1 million. An information program that increases the mail response rate by 5 points would save $5 million in total census costs.

The public information program for the 1970 census involves all major media of communication and the active cooperation of many national organizations.

ADVERTISING COUNCIL

The census has been adopted as a public service project of The Advertising Council, and a leading advertising agency, Fuller & Smith & Ross, began work on the campaign in 1968. A symbol for "Census '70," a stylized hand holding a pencil, was developed by the agency. It has been used by the Census Bureau on envelopes going to respondents and on training materials, in addition to the extensive use that it will receive in the information campaign.

The Advertising Council campaign includes: spot announcements on film, to be distributed to all television stations and network; radio spot announcements to go to all radio stations; print ads of several different sizes, some of which will go to all newspapers and others to daily newspapers; ads for all magazines of general circulation; an ad offered to business and trade publications; a poster to be placed in buses and subways cars in all major cities; a poster to be placed on all mail trucks.

Time and space for this material is contributed by the media. The only cost to the Bureau of the Census is for production of the materials involved.

A central theme is used throughout the Advertising Council campaign: "We can't know where we're going if we don't know where we are."

The campaign will begin in January, peaking in late March, and tapering off by mid-April, when the mail-return phase of the campaign will be over.

Because the Advertising Council was founded and is supported by newspapers, magazines, and broadcasters, as well as by the advertising industry, it is anticipated that the census materials will be widely used.

CENSUS BUREAU INFORMATION ACTIVITIES

The Public Information Office of the Census Bureau has focused its attention on the 1970 census over a period of more than two years.

A number of leaflets have been prepared describing how the census will be conducted, who uses census data, the electronic equipment, the questionnaire, history of census taking, unusual experiences of census takers, a map showing mail-back areas for the 1970 census, and a catalog of photos. These are included in a kit of materials provided to writers, editors, and broadcasters.

A 48-page booklet in the Department of Commerce economic education series, *Do You Know Your Economic ABC's?* was prepared for use by media and organizations. Titled "Uncle Sam Counts, The Story of Census '70", it is on sale for 35 cents from the Superintendent of Documents.

Each of nearly 400 district office managers will be provided with a kit of materials for local press, radio, and television, and a supply of envelopes addressed to all newspapers and broadcasting stations in his census district. Because residents of some areas will be asked to return their questionnaires by mail and others will be asked to hold questionnaires until a census taker calls for them, localized information is an important part of the census campaign. Each district office will have about 15 news and feature stories and several sets of spot announcements to distribute. Some of the items are to be released on specific dates; others are left to the discretion of the district manager.

In five large cities, the Public Information Office will assign members of its Washington staff to the Bureau's regional offices to coordinate public information efforts, acting as assistants to the regional directors. In four other cities the Department of Commerce field office will assign one of its staff

members to serve as information coordinator. The 10 cities involved are Boston, New York, Philadelphia, Detroit, Chicago, Cleveland, Dallas, Los Angeles, and San Francisco.

These assignments will be effective during the period February 15 to April 15.

NEWSPAPERS

The National Newspaper Association has carried several census stories in its membership publication which goes to editors and publishers of several thousand newspapers. In addition, a lengthy Census presentation was made to the NNA convention in Denver in October, explaining means by which publishers may aid the 1970 census.

The National Cartoonists Council and several of the major syndicates cooperated with the Bureau in inviting syndicated cartoonists to develop cartoons dealing with the census. More than a dozen cartoonists indicated interest and have been provided with information about the census.

An advertising service, which provides newspapers with art work and other materials to be used in local advertising, is developing a series of ads related to Census Day, April 1. A similar proposal to local merchants is being made by the American Retail Federation. These two efforts will give businessmen an opportunity to include census messages as a public service in their advertising programs.

TELEVISION

A number of network television stars have recorded or are committed to record brief announcements in support of the census. The Bureau will reproduce these on film and distribute them to TV stations throughout the United States.

It is hoped that a short program, perhaps two minutes, can be developed for Sunday evening, March 29, 1970, to be carried by all television networks, in which all households will be urged to cooperate in the census by filling out their questionnaires and having them ready, or mailing them back, on April 1.

All TV networks have been asked to run spot announcements prepared by the Advertising Council and to have stars make announcements about the census at the conclusion of network programs. One favorable response to the latter request has already been received.

Such network television programs as "Today" on NBC and "The Morning Show" on CBS have featured Congressman Charles H. Wilson, Chairman of the House Subcommittee on Census and Statistics and spokesman from the Census Bureau.

The Census Bureau has arranged the production of two 5-minute films emphasizing the usefulness of census statistics to communities. These films will be distributed to television stations throughout the United States with the suggestion that they be shown as often as feasible from February 15 through April 10.

The Television Bureau of Advertising has urged its member stations to support the 1970 census by carrying announcements from the Advertising Council and the Census Bureau, and by developing special local programs of several different types. Similar encouragement is expected from the National Association of Broadcasters.

MAGAZINES

Editors of virtually all magazines of general circulation have expressed interest in the 1970 census. These include Time, Life, Look, Newsweek, Readers Digest, U.S. News and World Report, McCalls, Woman's Day, Family Circle, and Good Housekeeping. In several instances, writers have been assigned to prepare articles.

A full page ad donated by the D'Arcy Advertising Company, urging support of Census '70, ran in the October 31 issue of *Time* magazine.

Several hundred magazines published by organizations for their members or by corporations for their employees or customers have requested and have been provided with census information.

REACHING HOUSEHOLDS THROUGH SCHOOLS

In several test censuses, the Bureau distributed a flyer to school children. This method of reaching parents ranked behind television, newspapers and radio, but substantially ahead of posters, bus ads, billboards, movies theaters, and other media in effectiveness. In 1970, school systems in about 30 large cities will distribute flyers containing a census message and a simple exercise in answering a census question.

Virtually all news publications circulated to children in school have promised to carry census stories.

Several magazines circulated among teachers by the National Education Association and the American Federation of Teachers have carried or will publish stories about the census.

INFORMATION AIMED AT MINORITY GROUPS

Because a substantial number of black persons may have been missed in the 1960 census, the Census Bureau began in 1968 a campaign to reach the black population by means of the 150 or more "soul music" radio stations. A leaflet "We The Black People" was prepared to provide background on the importance of census data to the black population. Special recorded announcements by black personalities are planned for distribution in 1970.

A similar leaflet "We The Mexican Americans" has been prepared and will be given similar promotion by means of Spanish-language broadcasts in areas with large Mexican-American population.

A Spanish-language version of a leaflet "The Census and You" and a Spanish soundtrack on a 5-minute film for television have been prepared, aimed principally at the Puerto Rican population in the United States.

Various news releases, radio spot announcements, and cut lines for a photograph will be translated into 24 foreign languages (including Chinese, Japanese, Portuguese, Italian, German, Polish, Ukrainian, Dutch, French, Norwegian, Swedish, Arabic, etc.) and distributed to newspapers and radio stations serving different nationality groups.

SPECIAL RELATIONS

Understanding of the census has also been generated through a community and special relations program, developed to secure the active cooperation of minority and other groups. Contacts have been made with organizations and agencies in and out of government whose activities put them directly in touch with people. These range from community action and civil rights groups to women's federations; veterans and service organizations; business, labor, and trade associations.

Minority groups with a recognized stake in the census stand ready to lend their own channels of communication to support of the census, to assist in recruiting census workers in critical areas, and to set up assistance centers for persons seeking help in filling out questionnaires.

Census Regional Offices have assigned community education specialists to follow through locally on contacts made at the national level and to gain the support of any others with a popular standing in the inner cities.

These represent a sampling of minority-group organizations which have given evidence of support:

National Association for the Advancement of Colored People.
National Urban League.
Congress of Racial Equality.
National Business League.
National Medical Association.
National Dental Association.
National Association of Television and Radio Announcers.
Progressive National Baptist Convention.
National Baptist Convention of America.
American GI Forum of the U.S.
League of United Latin American Citizens.
Puerto Rican Forum.
Puerto Rican Community Development Project.
Chinese Consolidated Benevolent Association.
National Congress of American Indians.

ENDORSEMENTS

One objective of the public information program has been to demonstrate the breadth of support by organizations representing persons from every walk of life. A number of national organizations already have endorsed Census '70 by way of resolutions, editorials, and public statements emphasizing the need for complete, reliable data on the makeup of the population.

In September 1968 directors of the National Association for the Advancement of Colored People urged "the full and accurate enumeration of Americans of black African descent or origin as a paramount national goal," to be accomplished through the decennial census. A month later the American Civil Liberties Union's national board backed the legal requirment that all items be answered, expressing only a reservation with respect to the question on race. Since then, a wide variety of ethnic, social, business, and professional groups have called for full participation in the 1970 census by formal action, publications, or leadership statements. These include:

The Chamber of Commerce of the United States.
The National Association of Manufactures.
The AFL–CIO's *American Federationist*.
The U.S. Conference of Mayors.
National League of Cities.
National Association of Counties.
International City Managers' Association.
American Public Health Association.
American Association of Advertising Agencies.
Federal Statistical Users' Conference.
American Institute of Planners.
National Association of Housing and Redevelopmnt Officials.
National Council of Senior Citizens.
Parents Without Partners.

Included also are a number of the minority-group organizations mentioned earlier.

Among publications aimed primarily at black readerships, *Ebony* magazine called "For An Accurate Black Count" in its January 1969 issue.

A number of other nationally known groups have indicated they will go on record urging public cooperation as census time approaches.

DECEMBER 19, 1969.

HON. CHARLES H. WILSON,
House of Representatives,
Washington, D.C.

DEAR MR. WILSON: This is in response to your request for information on the procedures to be used in the 1970 Census with special reference to minority groups, particularly in our large cities.

As you know, this has been a matter of concern to the Bureau for many years. Our evaluation studies of the 1960 Census show that the underenumeration was especially severe among Negroes and in the largest

cities. We then developed and tested field procedures to avoid a similar situation in 1970. At our request, the Congress approved an amount of $10 million for the specific purpose of applying special techniques in the enumeration of groups and areas where the regular procedures would not be adequate. Recognizing the special problems in California, with its rapid growth and the presence of a number of ethnic groups, we have given special attention to the enumeration in that State. These matters have been discussed with representatives of minority groups, with community leaders, and with other interested persons.

An essential element of the 1970 procedures in major metropolitan areas is the fact that we have established in advance of the census an up-to-date list of all residential addresses in the area. This comprehensive list is a better control for an accurate count than lists created solely by enumerators during a house-to-house enumeration, as was done in 1960. A copy of the census questionnaire will be mailed to each residential address with the request that the form be filled out and returned to the Census Bureau. Enumerators will endeavor to secure a questionnaire for every address from which one has not been received and will also call upon every household which returned a questionnaire that is incomplete or otherwise defective. One advantage of the mail procedure which we will use is that it gives us an indication very early in April of the areas within a city where mail returns are low and special action will be required to complete the census. As a result we will be able to concentrate our field resources there.

The address list was developed by starting with a list from commercial sources and correcting and updating it with the help of the Post Office on three different occasions. In addition, we are also doing an independent listing (the February precanvass) in the more densely populated areas in advance of the census, utilizing local personnel familiar with the area and able to speak the language commonly used in the area. This is designed to provide additional assurance that the list of residential units takes into account the many special situations which may exist. It is not limited to what is externally evident, but is designed to probe for situations where what appears to be a 1-family structure may actually house more than one family, and for similar cases. Hotels, lodging houses, and similar establishments will be separately identified and will receive special treatment. Finally, each census questionnaire asks, "How many living quarters, occupied and vacant, are at this address?" The replies to this question are used as a cross-check for those structures which include more family units than are shown on our lists.

Experience in the testing of the census methods indicates that it would be a mistake to withhold the mailing of questionnaires to any area because the residents might have difficulty in filling them out. The people in these areas are aware of the procedures used elsewhere in the city and are likely to express resentment at the presumed second class treatment implied if they are not handled like everyone else.

The questionnaire and the instructions enclosed with it are printed in English. However, leaflets explaining the questions and the procedures to be used in filling out the schedule are printed in both Spanish and in Chinese. They are available to every enumerator and will be widely distributed in the areas where they will be most useful.

The foreign language press, radio and TV stations will provide information about the census, including the availability of these leaflets, the location of places where assistance can be had in the local language, and a telephone number where a person speaking the language will be available. The telephone company's information service will also give out the telephone numbers at which assistance can be obtained.

The Advertising Council has again volunteered its service in behalf of the census and has developed an extensive informational campaign for use by the press, TV, and radio.

Census manned assistance centers will be available, located in the neighborhoods where they can be most useful. They will be open at times convenient to the public and their availability will be publicized through the press and radio and TV.

Enumerators will be recruited from the areas in which they will work. Insofar as possible they will be persons who speak the language which is commonly spoken in their area. In cases in which it is not possible to secure enumerators who meet these requirements, paid interpreters will be available.

Payments to enumerators will be on a piece rate basis, ranging from $1.30 for a short form to $2.50 for a long form completed interview. In the central city areas, the piece rates are set so as to yield approximately $2.50 per hour for an average worker.

Each of the major regional offices of the Bureau has at least one staff member who has been devoting full time to "community education." Most of these staff members are black, but where appropriate, they include Mexican-Americans or Puerto Ricans. We are in process of employing such a person of Chinese extraction for the San Francisco office. The work of these persons is in addition to the general publicity concerning the census which will reach the entire community.

We have established working relations with many national groups which are concerned with the interests of minority groups. Some of them have already taken effective steps to inform their constituents about the census. They, as well as others, are planning active campaigns in behalf of the census at the appropriate time early in 1970. Some of these efforts are still in the initial stages. Their major impact will become evident as the census date approaches. Federal agencies which have community programs are taking steps to inform their local representatives about the importance of the census and to encourage cooperation with the census by the people with whom they are in contact.

Our objective is a complete census of every community and every part of the country, for only in that way can the census be made to serve the many purposes for which a census is needed.

If you wish any additional information, please call on us.

Sincerely,

GEORGE H. BROWN,
Director, Bureau of the Census.

LIST OF 1970 CENSUS PRETESTS

(NOTE.—SMSA means Standard Metropolitan Statistical Area; population and housing unit counts shown are approximate.)

August 1961: Fort Smith city, Arkansas (57,000 population)—Test of a mail-back system wherein census enumerators listed all addresses and simultaneously left a short Fosdic questionnaire to be completed and mailed back.

June 1962: Fort Smith city, Arkansas (63,000 population) and Skokie city, Illinois (65,000 population)—Two identical tests of a mail-out/mail-back system based on the addresses from the 1961 special census and the 1960 census schedules respectively, updated by post-census building permits; and utilizing a short Fosdic questionnaire.

April 1963: Huntington Town, New York (150,000 population)—Test of a mail-out/mail-back system based for city-type areas on the addresses on the 1960 census schedules updated by residences added to the tax rolls since 1960, and for rural-type areas on a listing of addresses by census enumerators; and utilizing both short (90%) and long (10%) Fosdic questionnaires.

May 1964: Louisville, Kentucky, SMSA (770,000 population)—First of the two major feasibility tests of the mail-out/mail-back system, this one based on the addresses on the 1960 census schedules updated by post-census gas and electric meter installations and corrected by postal carriers for city-type areas, and on a listing of addresses by census enumerators for rural-type areas; and utilizing both short (75%) and long (25%) Fosdic questionnaires.

April 1965: Cleveland city, Ohio (805,000 population)—Second major feasibility test of the mail-out/mail-back system this one based on addresses from a commercial mailing list corrected by the postal carriers; and utilizing both short (75%) and long (25%) Fosdic questionnaires.

May 1966: First Content Pretest—Two long Fosdic questionnaires containing variations in question wording and layout tested in St. Louis Park city, Minnesota and Yonkers city, New York; the questionnaires were mailed on an alternate basis to a sample of about 2,500 housing units in each area.

May 1966: First Questionnaire Format Test—Two differently designed long Fosdic questionnaires were mailed on an alternate basis to a national sample of 2,300 housing units.

October 1966: Wilmington, Delaware, SMSA Listing Study (26,500 housing units)—Test of the comparative completeness of coverage of address listings in rural-type areas prepared by postal carriers and by census canvassers.

January 1967: Ohio Counties Listing Study (11,500 housing units)—Test of the completeness of coverage and cost for address listing by census enumerators in rural-type areas, using two different kinds of listing procedures.

March 1967: Memphis city, Tennessee (25,000 population)—Test in a small, purposely selected section of a city of 540,000 using special enumeration procedures designed to improve coverage in the congested areas of large cities.

March 1967: Second Content Pretest—Two long Fosdic questionnaires containing variations in question wording and layout were mailed on an alternate basis to a sample of 3,600 housing units in Gretna city, Louisiana.

April 1967: New Haven, Connecticut, SMSA (350,000 population)—Test of the mail-out/mail-back system based on addresses from a commercial mailing list corrected by the postal carriers for city-type areas and on a listing of addresses in rural-type areas prepared by the postal carriers; and utilizing both short (75%) and long (25%) Fosdic questionnaires.

May 1967: Second Questionnaire Format Test—Three differently designed long Fosdic questionnaires and one long non-Fosdic questionnaire were mailed on an alternate basis to a national sample of about 4,900 housing units.

August 1967: Detroit city, Michigan, Multi-Unit Study (810 housing units)—Test of a procedure for controlling and improving the quality of the numbering or other identification of the individual housing units in multi-unit structures as reported by postal carriers, using a small sample of such structures in a city of 1,700,000.

September 1967: Philadelphia city, Pennsylvania (16,000 population)—Test in a small, purposively selected section of a city of 2,000,000 using special enumeration procedures designed to improve coverage and enumerator performance in congested areas of large cities.

October 1967: Kalamazoo, Michigan, SMSA Listing Study (16,500 housing units)—Test of the efficiency of a revised method of determining boundaries between city and noncity postal delivery areas for address listing purposes.

May 1968: Madison, Wisconsin, SMSA (265,000 population)—A dress rehearsal of the mail-out/mail-back census based on addresses from a commercial mailing list corrected by the postal carriers in city-type areas, and, on a listing of addresses prepared by census enumerators in rural-type areas; with check-in review, and telephone follow-up of the mail returns handled by enumerators; and utilizing a short (75%) and two long (20% and 5%) Fosdic questionnaires.

May 1968: Chesterfield and Sumter Counties, South Carolina (125,000 population)—A dress rehearsal of the conventional direct-enumeration procedure with postal carrier distribution to all households of a short Fosdic form four days prior to Census Day; enumerators collect the forms, complete them by interview as necessary, and at every fourth household also interview on one of the long (20% or 5%) Fosdic forms.

May 1968: Housing Quality Study—Using a sample of 900 housing units in three cities, a comparison is made of three independent classification systems to refine the measurement of quality of housing in the 1970 census.

September 1968: Trenton City, New Jersey (100,000 population)—A dress rehearsal of the mail-out/mail-back census based on addresses from a commercial mailing list corrected by the postal carriers; with check-in, review, and telephone follow-up of the mail returns handled by a clerical staff in the local census office; and utilizing a short (75%) and two long (20% and 5%) Fosdic questionnaires.

REPORT BY ANTHONY LEWIS ON BIAFRA

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

Mr. SCHADEBERG. Mr. Speaker, many Americans continue to be concerned about what is in fact taking place in what formerly was called Biafra. We hear a great deal of talk and are recipients of "official" assurances that all is well or is being taken care of to ease the hunger and suffering of the victims of the unsuccessful efforts of the Biafrans.

It is disconcerting to read reports, such as the following by Anthony Lewis. We must not use words to cover up the lack of meaningful attempts to ease the suffering of the people:

U.N.'s THANT WENT TO NIGERIA TO TALK—NOT TO LOOK OR HEAR

(By Anthony Lewis)

ABA, NIGERIA.—U Thant, United Nations secretary general, flew into Nigeria the other day for what was described as a look at the relief situation after the war. He was tired, so he spent the afternoon resting in Lagos. That night he attended a dinner.

The next day he was supposed to visit Port Harcourt, which would have put him only 50 miles from the area of real damage and suffering. But he canceled that trip and, after some morning meetings with relief officials, he flew to Paris. At the airport he told the press that the relief situation was well in hand and that Nigeria was doing a fine job.

Thant did not see the 20-year-old girl in Awo-Omamma hospital burned all over the breasts and legs when she refused to go with six federal soldiers and they threw flaming gasoline over her.

GET NO RELIEF FOOD

He did not go into the densely populated center of what was Biafra, around Orlu and Ihiama, and discover that people who were being fed regularly by relief planes into Uli airport have had virtually no relief food for two weeks.

He did not interview one of the hundreds, probably thousands, of penniless refugees who have had their few sad possessions stolen by the undisciplined 3d marine commandos which occupied the southern portion of Biafra.

He did not talk to any Red Cross workers, foreign and Nigeria, whose mercy trucks the Landrovers were seized by the same marines.

Perhaps most important, he did not observe the pervading sense of confusion, disorganization and therefore of insecurity, in a land where no man knows how he is to get food or where he can look for protection against looting and rape.

There are many examples of kindness in the occupied area as well as horror stories.

The picture is mixed, then. But no one with any sense could look closely at the scene on this side of the Niger river without realizing how skimpy and chaotic the relief effort has been so far.

HE SEES NOTHING

Of course, Thant does not know about any of this, because he saw nothing. The only question is why he bothered to come to Nigeria.

Perhaps he thought it politic to say a good word for the winning side in a civil war—the side favored by most U.N. members. Perhaps he thinks things will be wonderful if he says they are.

All wars produce horror, and the Nigerians understandably insist that this post-war crisis is primarily their problem. But the world outside does have a legitimate concern.

There are times to be angry. One of them is when an international civil servant uses his position to suggest that there is nothing to worry us in a situation actually stinking of human misery.

PRESIDENT NIXON'S NO-WIN WAR AGAINST INFLATION

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

Mr. ALBERT. Mr. Speaker, yesterday the Board of Labor Statistics released the latest battle communique in President Nixon's no-win war against inflation.

The report: Another disaster. It shows wholesale prices surging upward at an 8.4 percent annual rate this month. The January rise was the second sharpest increase in 4 years, exceeded only by that of last May. The past month saw processed foods jump by 2 percent while a broad range of industrial raw materials increased 0.3 percent.

Mr. Speaker, these figures clearly portend the clear and unmistakable prospect of a further increase in this Nation's worst inflation binge in 20 years. We can now look forward with certainty to another sharp rise in consumer prices, prices which we saw skyrocket by over 6 percent in 1969. The President has said that prices increased 25 percent in the decade of the 1960's. He fails to point out that more than one-fourth of that 10-year increase came in the first year of his administration—and it now appears it may be worse in the second year.

This then, Mr. Speaker, is the dismal economic record compiled during the last 12 months by the executive branch. The Nation's economy has literally been strangled by a monetary policy justified by its proponents as the most effective of anti-inflationary tools. It has resulted in tight money and the highest interest rates in over a century. The homebuilding industry has been brought to its knees.

On the fiscal front, Congress has more than cooperated with President Nixon. We have acted to reduce his overall appropriations request for 1970 by some $5.6 billion. The revenue provisions of last year's tax reform bill will produce $6.4 billion more in revenue during 1970 than in 1969.

Mr. Speaker, the results have proven beyond a shadow of a doubt that high interest rates and tight money are demonstrably incapable of curing our present inflation. Quite the contrary, an excellent case has been made that in key areas of the economy, notably housing, they have contributed to that inflation. It is also obvious that a budgetary surplus, while of great importance, will not of itself guarantee anything approaching price stability.

Once again, I call upon the President to use the great moral and symbolic power of his office to protect the American consumer against the administered price increases of the giant monopolies. I further urge him to activate the enormous but now dormant powers of the Justice Department and the Federal Trade Commission under the antitrust statute to reverse the ever-accelerating rate of financial concentration by fewer and fewer giant corporations, whose pricing policies have been a major factor in the accelerated inflation under the present administration. Finally, Mr. Speaker, I implore the President to abandon his stubborn refusal to utilize the authority to impose selective credit controls which this Congress gave him last year.

Mr. Speaker, abdication of Presidential responsibility to protect the Nation against the ravages of inflation has become intolerable.

If inflation is to be halted and the present downward trend in the economy is to be reversed it is imperative that the President act and act promptly.

INFLATION

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

Mr. BEVILL. Mr. Speaker, the attention of this Nation is sharply focused on the rising cost of living and our efforts to cope with it. Inflation is a problem of utmost urgency. It reaches, literally, into the pocketbook of every American family, particularly those in the middle- and lower-income brackets.

The American people are demanding some realistic and decisive steps to stop inflation. One area where we could reduce spending and help stabilize the economy is in the area of foreign aid spending.

The President now has on his desk, awaiting his signature, a $1.8 billion foreign aid appropriation bill.

Let it be recorded, Mr. Speaker, that I urge the President, in the strongest possible terms, to veto this foreign aid

appropriation measure. And I urge my colleagues in the House to join me in calling upon the President to veto it.

I can think of no better way to initiate a real fight against inflation.

Mr. Speaker, I believe that foreign aid spending, as developed by this country through the years, accomplishes absolutely nothing. I believe it has outlived its usefulness and only serves to take away money needed by American families pressed to meet the very basic needs of life.

In 25 years, the American taxpayers have given away $182.5 billion—including the interest on money we have borrowed to give away.

And what has been the result? In 1950 only 32 countries were producing steel. Money from the United States helped build steel plants in 33 additional countries. These plants were equipped with modern American machinery. This has resulted in too much steel being imported into the United States, at one point creating a serious threat to this vital industry.

In recent months, steel imports have been reduced but the threat remains.

Studies of our foreign aid spending over the last 10 years point very strongly to the possibility that U.S. spending in foreign countries has done more harm than good.

A Presidential veto of this bill would be a major step in reducing inflation and putting the U.S. economy on a sound footing.

CONGRESS SHOULD PASS A NEW HEW APPROPRIATION BILL NOW

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

Mr. PELLY. Mr. Speaker, the action of the House yesterday in sustaining the President's veto by the substantial margin of 52 votes indicates the concern of the Members of this body over spiralling inflation. But, Mr. Speaker, it should not be interpreted as a lack of concern for the needs of education.

The controversy and the basic cause of the President's veto was not the amount of the appropriation. Rather, it was language in the HEW appropriation bill which made most of the $1.2 billion increase of the President's budget mandatory. In other words, the President would have been forced to spend money in some instances where there is no justification. In this case Montgomery County, Md., has been pointed out as being entitled to $6 million. On the other hand 100 poor counties would have only received $3 million. What the President wants and should have is flexibility to determine on the basis of need where this money should be spent.

Under the mandatory language of the HEW appropriation bill the President would have been compelled to expend funds and at the same time under the ceiling on spending imposed by the Congress on him he would have had to reduce other essential and vital programs to stay within the ceiling. These programs would have included medical research, aid for the handicapped, and other such programs.

Mr. Speaker, I know the distinguished chairman of the House Committee on Appropriations is calling his committee together to consider this situation. As such, I hope that the committee will consider that President Nixon has said if the mandatory language is eliminated he will increase funds for impacted areas where they are needed, and I know this is the case in my congressional district. Therefore, Mr. Speaker, I urge the committee to report a bill back forthwith with the same amounts contained in the legislation which the Congress had previously appropriated and at the same time striking the language which calls for mandatory payment. Thus, giving the President the flexibility which he wants.

Finally, Mr. Speaker, let me emphasize that education is going to have priority insofar as I am concerned.

ADVANCE FEED GRAINS PAYMENTS SHOULD BE MANDATORY

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

Mr. CULVER. Mr. Speaker, I am introducing legislation today with the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Montana (Mr. MELCHER) to make mandatory advance payments under the feed grains program.

As the law is presently written, the Secretary of Agriculture may pay farmers up to 50 percent of their contracts when they sign up for the progam in the spring. However, he is not required to do so.

Nevertheless, those payments have been made each year, and the farmer has come to depend upon them to help meet the heavy planting costs he faces in the spring.

Few farmers are fortunate enough to have the cash on hand for that kind of major outlay, and if advance payments are not available, then the only alternative is borrowing money at punitive interest rates.

This year, for the first time, the payments will not be made until July or August, at the earliest. There is no good reason for refusing those payments. It does permit the Department to keep that money on its books for several months, past the end of the fiscal year, to show a more favorable budget picture on paper, perhaps. But it has no real impact on the economy.

As a result of the strong objections made by many of us in the Congress who represent agricultural interests, as well as by the farmers themselves, the administration adjusted its original decision to refuse advance payments and has said instead that it would begin making payments in July.

The effect of that adjustment, at best, would be to move up payments by a few weeks in July and August, long after the farmer has been forced into debt to meet his costs this spring because the advance payments were not available when he needed them.

This is budgetary manipulation which will fool no one, particularly not the farmer.

By making advance payments mandatory rather than discretionary, we will remove the political pressures which are placed on the Secretary of Agriculture at times like this, to withhold the money for nonagricultural reasons.

And it will help to inspire the type of confidence in Federal commitments which is necessary if we are to expect farmers to participate in this voluntary program to maintain the orderly supply of agricultural commodities.

ACTION OF HOUSE IN SUSTAINING PRESIDENT'S VETO OF LABOR-HEW-OEO APPROPRIATION BILL WAS TIMELY AND A RESPONSIBLE MOVE

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

Mr. KLEPPE. Mr. Speaker, the action of the House in sustaining the President's veto of the $19.7 billion Labor-HEW-OEO appropriations bill was a timely and responsive move against further inflation and therefore a victory for the Nation's public school system which has been among the principal victims of rising costs.

The vetoed bill called for expenditures of nearly $1.3 billion more than the President had recommended, including $1.1 billion more than the House Appropriations Committee approved for HEW alone.

As the President pointed out in his veto message:

> Over four-fifths of the increase in H.R. 13111 is for education. Even without this large increase in education funds, the Federal Government in 1970 will spend over $10 billion for education—the most in our history.

The President added:

> Another 6% rise in prices this year would add more than $2¼ billion to the costs of public schools without any improvements in either quality or quantity. Twice as much as the $1.1 billion in increases for education proposed by the Congress will be swept away if we do not hold firm in our resolve to curb inflation.

Had the veto been overridden, funds for health and welfare could have been drastically cut. Expenditure of such funds was not mandatory and the President could have impounded them.

Contrary to many reports which had been circulated, education will continue to progress.

Federal assistance to impacted school areas in my State of North Dakota would total $2,664,000 under the Nixon request—exactly the same amount as was available last year. For the Minot School District, which receives the largest single share of these funds, the Nixon request would provide $1,134,000, slightly more than last year.

Now that the Nixon veto has been upheld, the Congress will take up a new appropriations bill for Labor-HEW-OEO. This will almost certainly represent a compromise between the President's position and the position of the

Congress. For education, this will mean an increase. What emerges will be something less than the total $1.3 billion increase proposed by the Congress and somewhat more than recommended by the President.

Many North Dakotans expressed to me the fear that Federal assistance for vocational education and adult education would be reduced or even eliminated. Not so. The amounts proposed for North Dakota by the President would be higher than last year for both programs.

During the 3 years I have served in Congress, I have consistently supported strong funding for education—four times in the last year alone—because I believe the soundest investment this Nation can make is in improving the education of its young people. I have voted for substantial cuts in many other programs in order to make it possible to increase spending for education.

At the same time, we must bring inflation under control and this can be done only if total Federal spending is brought under control.

Schools are among the principal victims of inflation. The cost of everything our schools buy, including the services of teachers, has shot upward. State and local taxes have been boosted time after time to meet these increased costs.

That is why I support the President in his determination to bring inflation under control.

During the 1960's, the Federal Government spent $57 billion more than it collected. Huge budget deficits caused prices to rise 25 percent in a decade.

The President reduced the 1970 budget proposed by President Johnson by $7.5 billion. But increases in spending approved by the Congress, together with increases in such uncontrollable items as interest on the public debt and health costs, are pushing the 1970 budget upward to an estimated $198 billion—some $6 billion above the spending ceiling imposed only a few months ago by the Congress itself.

The budget for fiscal year 1970 seems certain to exceed $200 billion—substantially more if the Congress and the President do not keep a tight rein on expenditures. Moreover, the so-called "uncontrollables" in the budget cannot be brought under effective control until inflation is brought under control.

I would especially emphasize the need to reduce interest rates which today not only lay an extremely heavy burden on Federal, State, and local governments but which are also stifling business, including the construction industry in general and homebuilding in particular. I look hopefully toward some change in Federal Reserve Board policies in the months ahead. A shift toward lower interest rates will come sooner if inflation is clearly brought under control.

I received a number of communications from members of the education profession urging me to vote to sustain the President's veto. Following is a typical one from an associate professor of economics for the University of North Dakota at Minot:

I know that you have been a leader in the Congress in the fight against inflation. It is my sincere hope that you will not weaken on the issue of the HEW bill, but that you will instead vote to sustain the President's veto.

I personally recognize the critical need for improvement in both our educational system and in our system of health care. As an Associate Professor of Economics for the University of North Dakota. I am, however, also conscious of the crisis which our economy faces at this time with respect to price stability. Furthermore, I know that there is much that can be done to improve the effectiveness of both our educational and health systems without greatly increased expenditures.

As a consequence, I want to assure you of my support, both as a voter and as a molder of public opinion in my professional capacity, for your action if you do support the President in this issue.

ADMINISTRATION SHOULD MAKE KNOWN AGRICULTURAL POLICIES

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

Mr. SISK. Mr. Speaker, I would like to remind the Department of Agriculture that the time has come to fish or cut bait in connection with agricultural legislation.

I want to commend Secretary Clifford Hardin for what I consider to be a most cooperative attitude in attempting to work out some of the very grave problems concerning American agriculture and in cooperating with the members of the Agriculture Committee. The Secretary has personally devoted a lot of time to meetings and conferences with the members of the committee and has generally demonstrated a most helpful desire to come to grips with our farm problems.

Notwithstanding Mr. Hardin's desires, however, we have not been able to get from the administration a definitive statement of its policies, spelled out in legislative language. The Agriculture Committee worked hard on this all last year. Hearings were held over a period of many months, and in addition to that there were literally dozens of informal conferences and meetings between members of the committee and the Secretary and his staff, many of them lasting into the evening hours.

It seems to me that after all of this time, the administration should be in a position to state rather firmly its policies in connection with food stamps, feed grains, cotton, wheat, and a dairy program. The wheat farmers in the Midwest are going to need to know before too long what the future holds for them. The cottongrowers are going to have to know what the farm program is because they must arrange ways to finance their operations many months in advance.

And I know that my colleagues from New York and Illinois and the other industrial States will want to look at any proposed farm legislation not only from the standpoint of payment limitations—which I feel certain will be part of any bill that comes out of the agriculture committee—but also on the effect a farm depression could have on their machinists and steelworkers and lithographers and food processors. Agriculture is desperately ill in this country right today, and the sooner we get a bill reflecting the administration's position, the sooner we can begin to deal meaningfully with these problems.

I am unable to determine why the administration has not come forward with any legislation. As I have previously indicated, Secretary Hardin and his top staff have demonstrated a willingness to move ahead. I hope that whoever is delaying a decision on this matter—whether it is the Bureau of the Budget or some other part of the administration—will face this issue head on and come to some kind of a decision. It simply will not do for the administration to hang back and take potshots at the Congress if it fails to bear its responsibilities in this area.

THE OIL IMPORTS PROGRAM

The SPEAKER pro tempore (Mr. SYMINGTON). Under previous order of the House, the gentleman from Texas (Mr. PRICE) is recognized for 15 minutes.

Mr. PRICE of Texas. Mr. Speaker, it is my understanding that the study conducted by the President's Cabinet Task Force on Oil Imports has been completed and will be transmitted in the immediate future to the President. According to the task force report, the present quota system should be replaced by a tariff system. The system would have as its objective "to move domestic prices smoothly to their lower level in all sections of the country while imports rise gradually to their higher level."

This basic objective would be accomplished by a plan containing five basic measures:

First, by the end of a 2- to 3-year transition period, the southern Louisiana well-head price for 30-degree crude oil would be lowered to $2.50.

Second, over a suitable period, the subsidies embodied in the current quota system would be phased out.

Third, tariffs rather than quotas would be employed as the basic means of achieving import restrictions. They would be coupled with a reserve mechanism designed to prevent any sudden or excessive increases in the volume of imports from the Eastern Hemisphere.

Fourth, the application of the tariff system would be variable. It would be extended to Canadian imports on the basis of negotiated common policies on related energy matters. Latin America would receive a lesser preference initially—this would be subject to later expansions, as U.S. import requirements increased.

Fifth, in both the short run and the long run, an oil import management system would be created for the purpose of monitoring both the mechanics and the administration of the new tariff system.

Although the task force study was supposed to be a nonpublic one, much of the recommendations and proposed changes in the present mandatory oil imports program has been leaked to the press. Since the recommendations and proposals became public knowledge, a storm of protest and reaction has ensued.

Fortunately, however, the published proposals do not represent the views of all the task force members. Five of the members are reported as favoring a modification whereby domestic crude prices would be lowered to $3 rather than the recommended $2.50—two other members opposed the plan, as such.

In perspective, it would appear that any alterations in the present quota system would have as their prime objective the reduction of domestic crude oil prices. In my judgment, an objective of this sort takes too narrow a view of the cost-price-value relationship of domestic oil to our economy and our way of life.

I believe I can speak with some insight on this subject, because I am from a major oil producing area of the country. In addition, as part of my continuing personal education, I have engaged in extended and ongoing dialogs with both independent and major oil and gas producers. As a result, I realize full well the major role the petroleum industry plays in our society, a role I would now like to discuss at some length for the benefit of those of my colleagues who are less than well acquainted with this vital subject.

The United States is the greatest consumer of energy in the world, and oil and gas are the single largest sources for this energy. Americans depend on oil and gas for approximately 75 percent of their energy requirements. Oil products fuel virtually all of our transportation systems, they heat our homes, they are intensively employed in manufacturing and production, and they power our military forces.

The extent of our national oil consumption is demonstrated by the fact that presently, the United States consumes more than 13,000,000 barrels of oil daily. Moreover, forecasters predict that our present rate of consumption will increase 50 percent by 1980, and will double by 1990.

I think it is clear that because of our great consumption of oil, it is absolutely essential for the United States to have a proven reserve of oil supplies capable of satisfying any national emergency, plus a supply of oil sufficient to supply our foreseeable normal oil consumption requirements. The stakes involved are very large; they center on our national security, our national self-sufficiency, and the economic well-being of all Americans.

As regards foreign oil, it seems that by virtue of an accident of geology, crude oil from primary foreign sources such as the Middle East, South America, and Africa, can be produced much cheaper than domestic oil. This cost differential is not related to technology or know-how. It arises merely from the differences in output between domestic and foreign wells. For example, an average U.S. well produces approximately 14 barrels of oil per day, while a very active well may produce up to 2,000 barrels a day. In contrast, an average well in the Middle East produces about 4,000 barrels a day, while very active ones generate more than 40,000 barrels daily. This marked disparity is due primarily to geological differences in oil bearing rock formations. Be that as it may, however, these differences create the disparate conditions whereby foreign crude oil can be delivered to the United States for about 40 to 50 percent cheaper than the cost of our domestic crude production.

Mr. Speaker, I would agree that in the short run, it would profit domestic refiners to use foreign crude oil. I would also agree that some of the resulting profit could be passed on to the final consumer in the form of lower prices for petroleum products. However, if one examines this condition from a larger perspective, it becomes readily apparent that these momentary pecuniary gains created by the tariff system are overshadowed by the larger problems that the tariff system creates for the United States and the free world.

Even at current restricted levels, the value of U.S. oil imports exceed $1 billion annually. This is the largest single cause for an unfavorable balance of trade. If the level of imports were enlarged, as is contemplated under the tariff system, it will undoubtedly cause an alarming crisis in the U.S. balance of foreign payments.

Turning to the domestic scene, it is rather obvious that an increase in the importation of foreign crude oil would have dramatic and undesirable consequences. Thousands of oil wells, most of them owned by small and independent operators would be forced to close. Domestic production would drop approximately 500,000 barrels a day. This would ultimately create an unrecoverable oil reserve loss of at least 6 to 8 billion barrels. In addition, the closing of the wells would drive out of work thousands of individuals who directly or indirectly owe their livelihood to the petroleum industry.

As a result of this unfortunate chain of circumstances, oil-producing States and the Federal Government would lose considerable tax revenue. In an effort to recapture this loss in revenue, the States affected and the Federal Government would be forced to levy more taxes from other already overburdened taxpaying segments of society. In the fiscal sense then, we would, by eliminating the quota system, be biting off our nose to spite our face.

In my opinion, exchanging the present oil import controls for a tariff system would have even graver implications for our national security. As I previously stated, the tariff system, in operation, could deal a lethal blow to our domestic petroleum industry by forcing certain producers to close down operations. An equal threat is presented by the tariff system, because as to the extent it increased oil imports, to that extent and even more, it would reduce the incentives needed for domestic exploration for new sources of supply. If such a condition were to endure for any appreciable length of time, it would set in motion forces that would cause the destruction of the domestic oil-producing industry, and compel the United States to depend on foreign nations for oil.

Mr. Speaker, every beginning student in economics soon learns that there is an inverse relation between supply and price; the scarcer the supply, the higher the price. In the case of domestic versus foreign oil, if the United States were to become dependent on foreign oil, foreign producers would naturally raise their selling prices. With our newly self-created vulnerability, we would have no other alternative than to purchase our needed supplies of petroleum at the higher prices. In such a situation, we would not be able to tap our domestic reserves, because we would have no reserves. They would have been exhausted and not renewed by reason of the tariff system of oil imports control.

In addition to being made vulnerable to the price-setting policies of some foreign potentate, reliance on a tariff system would place the United States in an extremely unenviable position in the event of another international war, or a local war in an oil-producing area of the world. The Middle East war of 1967 illustrates the situation aptly. At that time several oil-producing nations placed an embargo against oil flowing into the United States. These nations then produced approximately two-thirds of the oil moving in international commerce. Fortunately, the United States felt but little effect from the embargo because we had at the time sufficient spare producing capacity and adequate reserve capacity to compensate for the loss in oil imports. However, were a similar situation to develop, say in 1975, and if the United States had been operating under a tariff system for the preceding 3 years, I would daresay that the embargo would strike a crippling, if not fatal blow to our national security and that of our free world allies.

Mr. Speaker, I believe that on balance, trading the workable and equitable mandatory oil imports system for an untested and somewhat marginal tariff system would create more problems than it would solve. For this reason, I implore my colleagues to raise a chorus of concern about the task force report to the President. I urge you all to take swift action. International peace, national self-sufficiency, and domestic well-being dare not be sacrificed in the interest of short-term pecuniary gain.

WHAT PRESIDENT NIXON COULD DO TO STOP INFLATION

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Wisconsin (Mr. REUSS), is recognized for 60 minutes.

Mr. REUSS. Mr. Speaker, the beginning of a new calendar year and the beginning of a new session of the Congress is an appropriate time to assess the progress to date of the administration's war on inflation and to inquire into what lies ahead.

If one were satisfied to evaluate economic policy solely in terms of the administration's goal of achieving a gradual slowdown in the level of economic activity and output, one could judge its policy a success. The growth of output has now been brought to an approximate standstill.

But if policy is evaluated in terms of the behavior of prices, we have as yet no evidence that inflation is slowing down. There may be some slowing of inflation

in the year ahead. But I remain quite skeptical that any really significant reduction in the rate of inflation will be achieved through continued reliance on present policies.

If a more severe recession developed it would doubtless eventually have a salutary price effect. But the cost of thus achieving price stability would be far too high. I hope that the administration will not choose this course.

What I do foresee in the absence of new policy initiatives is continuing inflation and a continuing stranglehold of high interest rates on residential construction, on State and local government, and on small business. I do not regard this as a satisfactory outlook. I think there are policy steps we can take which would substantially improve this outlook.

WE NEED A SOUND FISCAL POLICY

The first step is a sensible fiscal policy. The President has announced his intention of achieving a "credible" budget surplus for fiscal year 1971. This is a laudable objective. I commend him for it. Nonetheless, preoccupation with discussion of budget totals for the coming fiscal year may have distracted attention from the fact that at the present moment, the budget for the current fiscal year is moving in the wrong direction. The substantial rate of budget surplus which we had achieved at the beginning of fiscal 1970 is gradually being eroded. The budget surplus for fiscal year 1970 will be substantially below the latest official estimate of $5.9 billion. The surplus will at best be in the neighborhood of $3 billion, and this will represent the averaging of a large surplus early in the year and a deficit or near deficit by the end of the year.

A sensible budget must have not only the right totals, but also the right allocations among programs. I only hope that when the 1971 budget reaches Congress, it not only will contain a surplus of the appropriate size but one achieved through appropriate weighting of many individual budget components. Important as a sound fiscal policy may be, I would not wish to see it achieved at the expense of vital social programs. There is plenty of room for budget-cutting in other areas, politically unpalatable though this may be. In addition to the military budget, where I believe there continues to be room for a substantial further cutback, one can identify numerous civilian programs of highly questionable public benefit. The supersonic transport would certainly be near the top of my list of totally inappropriate Federal expenditures. Highway expenditures, maritime expenditures, subsidy payments to wealthy farmers are other prime candidates for budget savings.

On the question of the proper allocation of Federal expenditures, the Congress has built a more responsible record over the past year than has the administration. Congress cut the administration's military budget requests by more than $5 billion. Appropriations for health, education, social security, and aid to the residential mortgage market were increased. I hope that in the administration's 1971 budget a better balance among programs will have been obtained. If not, Congress will have to do that job, too.

MORE TAX LOOPHOLES SHOULD BE PLUGGED

A firmer budget surplus can be achieved through revenue increases as well as through expenditure reductions. I am disappointed to learn that the administration apparently plans to make no recommendations for new sources of revenue. Despite the reforms achieved during the last session of Congress, there remains ample opportunities for improving the equity of our tax structure through revenue-raising reforms. The capital gains tax is the obvious first candidate, and its reform should be a high priority order of business during the current session of Congress. The time to continue revising our revenue structure is now. In addition to improving our tax system in the capital gains area, we should restructure the estate and gift taxes with the aim to eliminate loopholes. There is still ample room to impose user charges on those who are now subsidized by the present tax system. I am not content that we slapped the oil industry on the wrist—we should eliminate the oil depletion allowance beyond that which permits a normal write-off for the use of capital.

This is a reform-minded Congress. Let us remain so. Through the judicious use of reform of taxes and cutbacks of unwise spending programs, we can achieve a budget surplus which will permit a sensible monetary policy and other efforts to achieve sound economic growth.

SUPER-TIGHT MONEY CAN CAUSE A RECESSION

Our monetary policy in the past year has been unfortunate. It seems that the Federal Reserve is bound to a policy of keeping interest rates at a 10 percent or higher level. While there appears to be an erratic but small increase in money in the last few months, it still seems to be "policy" to permit no systematic increase in money, even if, as it should be, the increase is at a moderate rate. The result is that we have a very discriminatory monetary policy—hitting those areas, such as small business, municipalities, and housing, which we should be now seeking to promote.

Our glaring ignorance today seems to lie in our limited understanding of how to control inflation at full employment. The difficult economic question with which we will be repeatedly faced in the years ahead is that of getting rid of inflation without resorting to slowdown and unemployment. Exclusive reliance on fiscal and monetary policy, however skillfully this policy is conceived and executed, simply does not achieve this objective.

We cannot afford a recession to control inflation. Any added unemployment is an unnecessary price to pay in the name of fighting inflation. We do not need it, and should not have it. But to get "over the valley" to a more responsible economic policy for growth and improved standards of living, we need to use all the weapons in our arsenal: monetary policy, fiscal policy, credit control policy, price-wage policy, and selective support for critical areas of expansion of products and services now in the shortage category.

This country could end the phony war against inflation, and instead launch a real war, if President Nixon would tomorrow announce the following action program:

WHAT PRESIDENT NIXON SHOULD SAY

We have gone astray. We thought we could fight inflation with nothing but tight money and a balanced budget. As a result, 1969 has seen the worst inflation in a generation—6.1 percent on the consumer's price index. Economic growth and productivity have been forced to a halt, while prices keep going up.

I am today using the full powers of the Presidency to stop inflation. In addition to the inadequate monetary-fiscal measures so far employed, I shall use the powers Congress has given me to achieve the following social contract:

First. For 6 months, starting today, I ask all sellers of goods and services not to increase their prices. The 6-month standstill will enable price-wage guideposts for the future to evolve.

Second. As a symbol of the social contract, I am returning 10 percent of my salary to the Treasury for this period. I ask Members of Congress, of the Federal judiciary, and top grade executive branch officers and employees similarly to remit 10 percent of their salaries to the Treasury. I request all Americans of equivalent income in business, the professions, or elsewhere, to do likewise.

Third. I am appointing Mr. Ralph Nader as price ombudsman to keep prices down. Members of my Cabinet are to work closely with Mr. Nader, in such actions as: First, increasing beef import quotas so as to lower the price of hamburger and oil import quotas so as to lower the price of gasoline and heating oil; second, developing programs for lowering the cost of health services; third, eliminating inflationary governmental purchases.

Fourth. I am requesting the Federal Reserve Board forthwith to stop the increase in bank lending for business inventories and investment which has proved such an inflationary force. In addition to lowering prices by cooling off inflation, this action, by blocking off wasteful extensions of credit, will increase the credit available, and thus lower interest rates, for housing and State and local governments.

Fifth. I ask wage earners, in the light of the sacrifices I have asked of other elements of our society, to contribute toward ending the inflationary spiral by holding wage increases in the period ahead to a minimum such as will not result in a price increase.

These five measures, together with measures already taken, should signal to all that this administration means business in fighting inflation. With your help, we can restore price stability now.

USING THE FULL ARSENAL OF WEAPONS

Such an action program would add vital price, credit, supply, and income elements to the administration's present inadequate fiscal-monetary approach.

Unless we develop an effective mechanism for influencing the discretionary price and wage decisions of big business and big labor, and unless we remove some

of the structural economic inefficiencies which keep prices artifically high, I see little hope that our record of inflation control will improve in the years ahead.

One of the things that concerns me most about the present administration is not so much its failure to develop an effective set of wage-price guidelines but its reluctance even to try. On first taking office, this administration not only abandoned the guideline concept, but abandoned it with enthusiasm. There is little doubt that this enthusiastic disavowal of "interference" in the economy provoked price increases that could otherwise have been avoided.

The experience of the past year is clear proof, if proof is needed, that Government "neutrality" with respect to wage and price decisions is simply not possible in a modern economy. A few months back, the administration ventured a timid appeal to business and labor to be public-spirited in their decisions. This has now been followed by the promise of an investigation of one specific industry—copper.

While applauding these steps by the administration, I do not find myself applauding very hard. The need is for a much more vigorous and specific wage-price policy. The distinguished immediate past chairman of the Council of Economic Advisers, Arthur Okun, has recently published his thoughts on this subject. In his new book, Mr. Okun suggests the following essentials for effective wage-price guidelines: First, a specific set of guideposts; second, full consultation with business and labor; third, exposure of violations to the spotlight of public opinion; and fourth, creation of a competent "umpire." Mr. Okun is kind enough to mention that he sees "great merit in Congressman HENRY REUSS' proposal that the umpire should be a small special advisory board on price and wage standards." He goes on to say that this special advisory board "should be explicitly authorized to issue public statements and reports without clearing them through the administration."

I hope that the present administration is listening and heeding the suggestions of someone who has had recent experience with this difficult problem.

In order for sound price-wage guideposts for the future to evolve, the 6-month price standstill I have recommended is needed. So are the other elements of the proposed "social contract," including qualitative credit controls.

REMEDYING STRUCTURAL DEFICIENCIES

In contrast to its views on wage-price guidelines, the present administration has, I presume, no objection in principle to efforts to remove structural inefficiencies which keep prices higher than they need to be. Indeed, those most devoted to free enterprise ought logically to be those most enthusiastic about removing barriers to its efficient operation. In practice, however, one can hardly conclude that the administration has moved with outstanding vigor to improve economic efficiency.

The list of inefficiencies and impediments in our economy is a long and familiar one. Many of them are the direct consequences of Federal policies—policies such as import quotas, an irrational system of farm price supports, excessive restriction of competition in the transportation industries, inefficient Government procurement practices, unnecessary stockpiling of "strategic" commodities. I want to comment on just a couple of specific areas which seem especially timely at the moment.

One is the question of oil imports. To its credit, this administration has at least raised the possibility of changing or abolishing the present quota system—a system which costs the American consumer several billion dollars a year in unnecessarily high prices for oil and oil products. It now appears highly doubtful, however, that the administration is prepared to act in the decisive manner necessary to achieve a significant consumer benefit. A simple abolition of the present quotas, an action which could be taken by Executive order, would benefit the consumer most. The administration proposal to move to a tariff system, could, if the tariff were not excessive, serve as a first step toward a phased elimination of import restrictions. I urge the administration to fulfill the hopes it has raised in the mind of the public by significantly relaxing restrictions on oil imports.

Another area in which the administration has raised hopes is that of health care. Some months ago the administration informed us of something most of us already knew—that we face a crisis in the health care industry, a crisis composed of spiraling costs and inadequate services. I have hoped that this public recognition of a state of crisis would be a prelude to vigorous action—action to increase our supply of critical medical personnel, and action to improve the incentives to hold down costs under Federal health care programs. Where is this action? The Secretary of Health, Education, and Welfare was recently quoted in the press as saying:

> Right now the only thing we can do is mend and patch.

Why is this the only thing we can do right now? What is wrong with moving energetically to remove the supply shortages and correct the inefficiencies which are pushing up the costs of medical care and denying adequate medical care to large segments of the population?

I hope that in the economic report, the budget, and the other Executive messages which will shortly be coming to the Congress, attention will be given to these and other areas of inefficiency and unnecessary price inflation. The problems are stubborn. Few of them can be easily solved. But if the Nation is ever to enjoy noninflationary prosperity, they must be solved.

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

Mr. REUSS. I shall be glad to yield to the gentleman from California.

Mr. HANNA. Mr. Speaker, I want to commend the gentleman for the statement that he has brought forth to the House and for the soundness of some of the measures which he has suggested which would really bring us into a fiscally balanced stance that would be meaningful with the result of inflation.

Mr. Speaker, I join with the gentleman in urging serious consideration of some of the suggestions which he has made.

I have noted that the gentleman has been outstanding in his service here in bringing constantly to the attention of the Members of this body this kind of attention to these matters whom very few have had the opportunity to study and who possess the background and ability to do as does the gentleman from Wisconsin. I think he has done a great service to the House in bringing these matters to the attention of his colleagues.

I would like to take this opportunity, if the gentleman will yield further to me, to ask the gentleman if in truth we have not seen some pretty dramatic demonstrations as to why the interest rate approach alone has not been an effective fighter against inflation. I want to review with the gentleman some figures on an actual home purchase situation by the ordinary American.

If we look at a $20,000 home sold in 1966, at which time the prevailing rate of interest was 6.5 percent, the monthly payments would be $126.42.

Now, I have tried to project that into 1970. Assuming that the demon inflation is the villian and assuming in the 5 years since 1966 to 1970 you have inflation at the rate of 5 percent which, thank heavens, has not been greater, I assume that a $25,000 home would appreciate in value sufficiently to take care of the 5-percent inflation over the 5 years, making the $20,000 home now worth $25,000. If the interest rates were the same, the payments would now be $158.03, or a growth of $32 a month just to take care of inflation. But, on the other hand, that did not happen. However, some inflation did occur. If we assume the same house at the same $20,000 price, at 8.5 percent, which is the lowest interest rate about which I know available to anyone with which to buy this kind of house, this would make the payments $153.79, or $28 in added monthly cost in interest alone.

This would then make the payments $157.79, or $28 in added monthly costs on interest alone. The assumption I made of a 5-percent inflation. Does the gentleman not agree with me that when you have a fighter in the field who is bringing this onerous result to the home buyer that the inflation itself is bringing that it is pretty difficult for the American people to accept that this is the way they want to fight the demon?

Mr. REUSS. The gentleman is exactly right. I would add to what the gentleman said this: He has pointed out—and I do not think there is a Member of this body who is a more close student of the home-building industry than the gentleman from California—the gentleman has pointed out the catastrophic effect of the interest rate increase on homeownership. It means that for all practical purposes the ordinary wage earner or the moderate income maker cannot under present costs afford to buy a home.

In addition to that, I can think of no finer way of sopping up the potentially inflationary purchasing power of the American people than to provide them in greater numbers with probably the

most beloved physical possession that a family can have in its lifetime, a home. And it is ironic indeed that present housing starts in this country are down from 2 million where they ought to be, down to I believe something like 1.5 million a year. That means that the housing industry could produce hundreds of thousands more homes, but does not do so, and to the extent it does not do so we are failing to sop up purchasing power, and this is helping inflation, not fighting inflation.

Mr. HANNA. The gentleman is correct. And I would underscore what we have said here, and bring to the attention of the House the fact that if you add up the inflation and the interest together, and assume that under the 1970 conditions the buyer now is faced with paying a $25,000 price tag on the $20,000 house at 8.5-percent interest, and he would have to make payments at $192.24, or an increase of $66 a month in just this 5-year period, and out of that interest charges would be $38.54, and inflation costs $27.50. So at this point where he goes up that two points in interest rates, and a 5-percent-a-year increase in inflation, the interest already increased the cost and there are greater costs with the inflation than the inflation itself.

So what the gentleman I think is saying is most important. First of all, we are not directing people into the purchase of homes, because they simply cannot meet the cost of the acquisition of a house.

Second, the mechanism of the market to sell homes is virtually destroyed. There is a need for homes, and there are no homes passing, not because there are no buyers, and not because there are no potential sellers, but because there are people who will not sell their homes because they have to turn the equity over to the money loaners. So rather than just sell themselves down the creek, so to speak, and lose the equity that they have sweated over for so long, they are holding on to their homes, hoping that there will soon be better days, and a more suitable approach by the administration and the Congress.

But in the meantime there is no mechanism for home sales. It is a defeat mechanism. We have not lost the value in the homes. We have lost the mechanism to pass that value from one ownership to another ownership. Am I not correct?

Mr. REUSS. The gentleman from California has made a real contribution, and I commend the gentleman for it.

Mr. HANNA. If the gentleman will yield further, another point that the gentleman has made, and that I would want to underscore, is that the gentleman has said that if you are going to fight inflation you have to pass value for the dollars that are involved. And the gentleman has made the point that in home ownership you not only have the ability to pass value, but you also have a forced savings, in that as people make payments on their homes. They are, we hope, setting aside some equity, and in a sense, besides, purchasing space to dwell in, they are in effect building some kind of equity, a savings for the family. Is that not correct?

Mr. REUSS. That is correct.

Mr. HANNA. Therefore, if it is appropriately done as in the past, it would certainly not be a demon of inflation but rather an instrument of saving. Is that correct?

Mr. REUSS. That is correct—I believe that is exactly correct and I thank the gentleman for his constructive contribution.

Mr. HANNA. I thank the gentleman and I will support him in urging legislation that will reach the goals he has outlined.

Mr. REUSS. I thank the gentleman.

MEDICARE FOR TEACHERS AND OTHER STATE EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, I have joined in sponsoring legislation which I would like to bring to the immediate attention of my colleagues: a bill which would allow States, under Federal-State agreements, to provide hospital coverage under medicare for teachers and other public employees whose services are not otherwise covered by social security. This permissive legislation is strongly backed by the National Education Association as well as the education associations of the affected States, and is one which I have advocated strongly in the past.

Under law now, a person must be covered by the social security retirement system to be eligible for medicare hospitalization insurance. Although most employees in the United States are now automatically covered by social security, this is not true with regard to employees of State and local governments. About one-fourth of the States and Puerto Rico do not allow social security coverage and in several other States, as in my own State of Texas, only part of the teachers and public employees are covered. In the city of San Antonio—part of which I represent—only two of the 13 school districts participate in social security.

Those not covered by social security, although members of State or local retiremenit systems, do not have programs similar to the hospital insurance program available to them. Many are willing to pay for such insurance, but under present law are precluded from doing so. What could be fairer than to permit these employees the opportunity to pay for the security so desperately needed in old age?

There is no reason why these employees should not be brought under the basic hospital insurance program without requiring them to participate in the social security retirement program. The insurance program is financed by a payroll tax completely separate from the regular social security tax. Income from the hospital insurance payroll tax will go into a separate trust fund to pay the benefits and administrative expenses of the hospital insurance program. It is a completely separate insurance program. Allowing these public employees to participate in the hospital insurance program will actually improve that program by broadening the number of persons covered.

I am particularly concerned about the over 689,000 public schoolteachers who do not have the protection afforded for their old age having spent their lives helping shape our country's future in educating our young people at low pay scales. The plight of our retired teachers and other public employees who face high medical costs, without the coverage of medicare available to other senior citizens, is a tragic one. I urge support for my bill, H.R. 15636, and companion bills as a means to supply a reasonable and fair solution to this unfortunate situation.

SOME BANKERS STILL HOLDING STUDENTS HOSTAGE IN ORDER TO INCREASE PROFITS

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

Mr. PATMAN. Mr. Speaker, when the student guaranteed loan program legislation was before this body in the last session, I was bitterly opposed to a provision in the legislation that would have allowed lenders to receive a subsidy of up to 3 percent for each loan that they made under the student guaranteed loan program. I pointed out at that time that the payments were nothing more than a banker's subsidy and would not solve the problem of providing education funds for college students to begin or finish their education.

I further pointed out that the bankers would use the interest subsidy in order to force higher payments for the student loans. The subsidy is paid each quarter and the amount of the subsidy, up to 3 percent on top of the 7-percent interest rate charged by the lenders, is determined by the Secretary of Health, Education, and Welfare. The initial subsidy was pegged at 2 percent for the first quarter, which meant that the bankers had a full 1-percent untapped subsidy. Recently the Secretary of Health, Education, and Welfare announced that the subsidy for the second quarter of the new program would be 2.25 percent.

These two subsidy payments have amounted to millions of dollars but they have not done the job of helping deserving students.

Almost daily, I receive letters from students throughout the country who complain that banks in their area will not grant student loans. For instance, I recently received a letter from the president of the Constituent Assembly of the University of Texas at Arlington. He pointed out that a check of financial institutions in the Dallas-Fort Worth area revealed that there were 49 financial institutions that would not make student loans. I have received letters from other parts of the country revealing similar results.

The letter clearly outlines the plight of the student at the University of Texas at Arlington who seeks a student loan.

At the same time these letters are coming in, the Office of Education is paying out $150,000 to a private consulting firm to determine whether or not banks are refusing to make student loans. The study is not only a waste of time but a

waste of money which could be better used to help students finance their education. One thing that you can be certain will happen is that after the study is completed, HEW will release a grand pronouncement that the banks would like to participate more in the program but are not getting rich enough from student loans. Following that, HEW will propose a new bankers' bonanza designed to increase the subsidy for the banks. But while the study is going on, it must be remembered that there is still three-quarters of 1 percent of untapped subsidy and it is only a matter of time before the banks and HEW, working hand and pocketbook together, make all of the remaining subsidy available.

I would like to quote from a statement that I made on the student guarantee legislation when it was considered during the first session.

True, HEW may start out with only a 1 percent or 1½-percent subsidy payment to the banks but it will not be long before the American Bankers Association puts on its guns and masks and tells HEW that unless the banks receive the full 3-percent subsidy, there will be no more student loans.

This is exactly what has happened and now HEW is gladly participating in the holdup rather than searching for a meaningful alternative that would help the students instead of helping the banks.

It is my understanding that HEW is considering a student loan bank program to be financed by the Federal Government.

I welcome HEW's interest in a plan which I proposed more than 2 years ago. However, unlike my plan, HEW's version would have the Government foot the bill but once again allow the banks to make the profit since they would be the institutions to dispense the loans. Thus, as a reward for wrecking the student loan program, HEW is now considering a Government-sponsored program that would guarantee the banks a profit.

It must be remembered that the Small Business Administration was created because banks would not make funds available to small business. That agency operated successfully for a number of years but recently it has become virtually defunct as far as helping people because it has turned over the operation of its programs to the bankers. Now it appears that HEW wants to follow the lead of SBA and allow bankers to take over its position in the Cabinet. When that happens, I propose that we rename the agency the "Department of Health, Education, and Welfare of the American Bankers Association."

The letter referred to follows:

LIBERAL ARTS CONSTITUENT ASSEMBLY, UNIVERSITY OF TEXAS AT ARLINGTON,

Arlington, Tex.

Representative WRIGHT PATMAN,
House of Representatives,
Washington, D.C.

DEAR SIR: It has come to the attention of this body that a disproportionate number of students at the University of Texas at Arlington are encountering difficulty in obtaining loans under the Federally Insured Student Loan Program (Public Law 91-95). The problem is that very few lending agencies in the greater Dallas-Fort Worth area are cooperating with the program despite a Congressional increase in the interest rate payable. Enclosed is a list of financial institutions contacted by various students within the last thirty days, all of which have declined these loans.

Any assistance you can provide in correcting this situation will be greatly appreciated.

Sincerely,

THE SCHOOL OF LIBERAL ARTS
CONSTITUENT ASSEMBLY,
MIKE GROCE, *President.*

CREDIT UNION MAGAZINE SPOTLIGHTS YOUTH MOVEMENT

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

Mr. PATMAN. Mr. Speaker, from time to time I have brought to the attention of this body the outstanding work that credit unions throughout the country are doing to encourage young people to develop good habits of thrift. Credit unions are also helping young people obtain a better economic education by sponsoring some form of credit union activity which directly involves young people.

Of course, the student-operated credit union at Fort Knox, Ky., is an outstanding example of how young people are being drawn into the credit union movement. But there are a number of other credit unions which are also active in the youth field.

The January issue of the Credit Union magazine, a publication of CUNA International, contains an article "Credit Unions and Youth—They Learn From Each Other," in which a number of credit union youth activities are discussed.

I am including a copy of the article in my remarks because it is my firm belief that credit unions can be of vital assistance to our school systems throughout the country in providing practical economic education to students at every grade level.

CREDIT UNIONS AND YOUTH—THEY LEARN FROM EACH OTHER

There are any number of reasons why credit unions are working with youngsters. Basically, though, they boil down to just two: Young people need credit unions, and credit unions need young people.

Both reasons are apparent in two programs currently under way in Philadelphia.

On the city's west side the GSMI Federal Credit Union is putting teenagers on the board and committees with full voice and voting powers.

Across town, in the oldest part of the city, credit union philosophy, practice and literature are course materials in a junior high school class.

The accompanying stories explain how and why these two methods are working.

"All of us are 10 years older now than when we started," Leon Taylor Jr. said. "We need young people to keep our credit union going. About half our officers have been with us since organization."

Although he was describing the GSMI Federal Credit Union in Philadelphia Taylor summed up a problem common at all levels of the credit union movement.

"These young people are better prepared today than we were because of the mass media and the schools," the GSMI treasurer continued. "There's no more of this being seen and not heard. They have a confidence we didn't have at that age. And if this credit union is to survive we'd better bring them into it."

In analyzing the situation, the board decided that youngsters are not only good credit risks but in need of loans. "All our worldly possessions are bought early in life," president Howard K. Lowber explained. "Young people are actually a better loan risk than most realize because every year they increase their earning capacity."

Using himself as an example, Taylor pointed out that "I'll keep my bedroom set till I die. If there's no borrowing, there is no potential for the credit union. The youngsters still have to buy those things. Youth: here is our potential!"

To involve these young people, the credit union increased the board from seven to nine members and made room on the education committee.

Filling the newly created directorships are Linda Booker, 18, and Barbara Dennis, 22. John Lawson, 17, and Leon Taylor III, 16, are both on the education committee.

All four of these new credit union officials have completed the league-sponsored bookkeeping course at St. John's College in Philadelphia. Classes were held once a week for three hours, for nine weeks.

Now the board is considering a young person on each committee and as a loan officer with authority to grant loans up to say $100.

The purpose, of course, is to have young people talking to young people.

Of the credit union's 475 members, 60 of them are under 21. Most of these young people save and borrow like the adults—with share and loan accounts showing much activity.

One boy joined the credit union two years ago at age 17. His share account has grown to $400, with numerous withdrawals as he needed money.

Another fellow borrowed $100 to tide him over until pay day when he got a summer job at the shore. A group of boys formed their own combo and needed money for shirts and other odds and ends for their first job. The money was paid back in 30 days and they have savings accounts with the credit union.

An 18-year-old girl borrowed $400 for a trip to Bermuda. A teen-age boy borrowed $50 for the high school prom.

In 1969, youngsters borrowed more than $1,500 with not one loan becoming delinquent.

"We have no delinquency problem with them," Taylor said. "Go through our delinquency list and you'll find most of it in families in the 35 to 40 age group; both working and trying to live on $18,000 while making only $14,000.

"The very young and the very old are almost religious about making their commitments," he said.

For this reason the credit committee has shown about as much hesitation in lending to members over 70 as it has to youngsters.

The needs of the elderly are very real, too, explained Alfred Taylor, a loan officer and education committee member. They borrow to meet medical expenses, repair a furnace, or for tuition for their grandchildren. Although these loans are not covered by loan protection insurance, only one has ever been written off—and that for $56.30.

Youngsters were once required to have cosigners for their loans, but this was changed about a year ago. Although parents are still advised of these loans, the decision is left to the youngster and the credit committee. Most have either part-time jobs or allowances, so loans are made on ability to repay, reason for the loan, and the character of the borrower—but not necessarily in that order.

Just how does one go about getting youngsters into the credit union?

"By treating them like adults," is treasurer Taylor's answer. "Basically, we just asked them to come in. Their opinions are just as important—and oftentimes more valuable—than any other member of this credit union. They've helped bridge the generation gap. We ask them to bring in others who are reliable. We approach the kids in the Sunday

schools, and we make regular appeals through the church."

The Greater St. Matthew Independent Church has backed the credit union from the beginning, and continues to give it assistance without interference, president Lowber explained. "The church paid the credit union's organizational costs because the Rev. Mahlon M. Lewis saw the credit union as a service for the congregation. In fact, the credit union began with a substantial deposit by the church."

And now Mr. Lewis is helping the credit union attract the younger members of the congregation.

As far as service in an official capacity, young people "are being brought in with an eye toward replacement," Lowber explained. "They'll know just what to do and how to carry on as we older folks leave board of directors and committee assignments."

Eighteen-year-old Linda Booker has learned to keep the credit union's books, while 16-year-old Leon Taylor III handles collections on Monday night and Sunday.

Their activities within the credit union, however, have not developed without resistance, or at least apprehension. Many older members are reluctant to discuss their financial affairs with younger people.

"But this is gradually disappearing," the treasurer explained. "Members tend to see them as children they knew, not as the maturing adults they now are. I keep reminding the older members that 'Mr. Taylor is not the credit union. The credit union will be here after Mr. Taylor is gone. At the bank you don't ask for a certain clerk when transacting business.' "

But the biggest reason for the change in attitude on the part of the older members is the young people themselves.

"The youngsters have proved that they can accept responsibility," the treasurer said. "They are convincing the older members of the church that they are good, sound citizens. They are worthy of our trust and our respect."

The credit union is many things to many people. At Philadelphia's Penn Treaty Junior High School it is becoming an English course.

Teaching "See Judy run" to his students is totally irrelevant to their way of life, English teacher S. J. Strigari believes. Instead, he uses credit union materials to teach the basics of the English language. And as a by-product, youngsters are getting something else they can use the rest of their lives.

Strigari's students attend a big city school in the oldest part of town, an area sociologists term a zone in transition. Parts of the surrounding neighborhoods are breaking up, with families moving out and others moving in—usually those on the lower rungs of the economic ladder.

Often a student's motivation to learn and put into practice what he gets in school ends with the final bell of the day. Consumer education and wise money management are rare—if not non-existent—in their daily lives.

So Strigari feels it is his duty as a teacher to be concerned with the whole boy, not just his ability to diagram a compound sentence.

His efforts began some years ago when he started a Money Management Club, a credit union owned and operated by students, but not chartered by the state or federal government (see June, 1967). The idea came after watching the CUNA film "People of Kolevu." "If the credit union can work with primitive people, it should work with American school kids," he thought.

So each spring Strigari starts a number of these clubs—one for each class he teaches—as an extracurricular activity, and disbands them in the spring when classes end. He is constantly refining the operation and ideas under which they function, but now Strigari's enthusiasm is directed toward all students in his classes, not just those who join the club.

He is fitting credit union literature and ideas into his English curriculum.

"It is my belief that a credit union lends itself beautifully to the four separate disciplines kids have to have," Strigari explained. "Number one: In any big city they must learn human relations; get them to live and work together. Number two is English, communications. Three is math. And four, social studies."

Credit union operating forms, the book *It's Not Just Money,* the Scholastic magazine insert *Managing Your Money,* and other credit union literature are the textbooks of Strigari's English class.

When students fill out membership and loan applications in the classroom, they are learning to read and write, and to understand what they are reading and writing. Putting down the reason for the loan is equivalent to writing a composition for these teenagers.

They give the loan applications to other students for approval or rejection of the fictitious loan. Here again the student must write a reason. The spelling composition and thought are all gradable by the teacher.

The youngsters also work up their own regulations, constitution and bylaws, hold board meetings, dabble in elementary bookkeeping, and learn the rudiments of public speaking.

"I'm trying to make school as relevant as I know how," explained the English teacher who is also treasurer of Local 628 I.B.T. Federal Credit Union.

"The kid's credit union, then, becomes a practical extension of what I teach in the classroom. Each section I teach—five of them—gets an individual club."

A glimpse of the loan applications from last year's money clubs gives an idea of the type of youngsters Strigari is working with and how well he is succeeding.

"Pay for lost math book—$1.80." "Repair broken glass and car fare—$5.50." "Down payment for ring for a girl—$3." "Birthday gift for mother—$1." "Pair of pants and pay Mr. Blake (principal, for lost property)—$5." "Because I have to have it for a baseball team dues and if I don't have it by Thursday I won't be able to get on the team—$3."

One senior with only 25 cents in shares wanted to borrow $25 to buy an amplifier for his guitar. He needed co-signers for that one, but—being a good looking kid—had no trouble getting them. "Every girl in the class co-signed for him," Strigari said. The 14 co-signers had $16.90 in shares.

Stragari admits he is also thinking of the credit union movement as a whole in teaching these youngsters about credit unions.

"The credit union movement is built on volunteer labor; it's built on little volunteer movements," he said. "Many of these credit unions will die off when these volunteers die off. Credit unions become one-man organizations very quickly."

What Strigari hopes to accomplish is to "train kids so when they grow up they will know what credit unions are all about, that they'll be able to take their places as members and directors."

He also points out the reason why the movement needs the reservoir of talent he envisions.

"Fifteen per cent of the federal credit unions that liquidated last year did so because of lack of interest. Smoldering below the attitude these kids show us is a desire to serve. All we have to do is bring it out.

"Let me have a kid and expose him to the credit union idea when he's young and I'll make a credit unionist out of him for the rest of his life," Strigari promises. "And by doing this I'll have made a contribution to the future of the movement."

Strigari dreams big, but he is working at a level and in a manner that makes such dreams a practical reality.

HIGH INTEREST RATES THREATEN CREDIT DEBACLE

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

Mr. PATMAN. Mr. Speaker, as my colleagues know, I have been concerned for many months that the misguided monetary policies of the Federal Reserve System and the Nixon administration were leading this country toward a severe recession, if not a full-blown depression.

Already, the homebuilding industry is in a depression. There can be no mistake about that. And the small business community generally is little better off.

At long last, the national news media is beginning to pay some attention to dangerous warning signals. This morning, January 29, the Wall Street Journal carries a lengthy article detailing the possibility of a real credit debacle.

The article quotes a bank economist as stating:

Ten years ago, the thought of a 1929-style collapse never entered my head. Five years ago it was something that seemed highly unlikely. Now I still don't expect a debacle, but I think about the possibility a lot.

Mr. Speaker, another firm indication of the state of the economy are the automobile repossessions which are climbing all over the Nation. A recent story in the Dallas Morning News illustrates this growing problem, another result of high interest rates.

Mr. Speaker, I insert both articles in the RECORD:

[From the Wall Street Journal, Jan. 29, 1970]

WORRY OVER DEBT: SOME ECONOMISTS FEAR SOARING CREDIT VOLUME POSES A DIRE THREAT—THEY CLAIM MANY BORROWERS MIGHT FAIL ON PAYMENTS IF A MAJOR SLUMP COMES—COMFORTING 1929 COMPARISON

(By Alfred L. Malabre, Jr.)

While economists ponder whether the economy is sliding into a recession, a far more ominous question is looming: Would a recession trigger a major credit collapse?

Most economists doubt it, unless a very severe business slump should develop. But most believe the danger of a collapse—with major corporate bankruptcies and widespread failure of consumers to pay their debts—appears much greater now than at any other time since World War II.

The explanation essentially is that debt of all sorts has soared in the postwar years, a fabulously prosperous time of economic expansion punctuated only by four recessions that were exceedingly mild by prewar standards. So long as prosperity has prevailed, consumers and businesses have been able to shoulder their soaring debt burden without much difficulty. But a sudden end to prosperity now, many analysts fear, could lead quickly to serious trouble.

Some economists, to be sure, have been annually forecasting an imminent credit collapse for a decade or more, right through the longest economic expansion in U.S. history. Until recently, however, these Cassandras represented only a miniscule minority of economic opinion. Such forecasters are still in the minority, but their gloomy views are gaining broader acceptance, as signs of a business downturn grow.

PONDERING A DEBACLE

The head economist of a large New York City bank offers the sort of comment heard much more frequently nowadays. (Like many business economists when they speculate

about the possibility of a financial collapse, he requests anonymity on the ground that his superiors at the bank frown on such publicity.) "Ten years ago," the analyst says, "the thought of a 1929-style collapse never entered my head. Five years ago it was something that seemed highly unlikely. Now I still don't expect a debacle, but I think about the possibility a lot."

Evidence that the debt load has soared pervades the economy. Money owed by all levels of government, all varieties of businesses and individuals now is nearing the $2 *trillion* mark. The total is about twice the size of the country's gross national product. At the start of the 1960s, total debt was about 70% larger than GNP.

Federal Government debt has grown relatively slowly, despite all the talk over the years about Washington's penchant for spending. If this debt is removed from the total, the borrowing boom appears still more dramatic, as the following table shows. The 1969 debt figure is an estimate based on mid-year statistics, the latest available. The totals are in billions, stated in current dollars for the years specified.

Non-Federal debt	*GNP*
1969: $1,347	$933
1960: 633	504
1946: 167	209
1929: 176	103

The GNP figures, of course, provide the broadest possible statistical measurement of the size of the U.S. economy. In 1969, non-Federal debt exceeded GNP by 45%. In 1960, just before the start of the record-smashing economic expansion of the 1960s, the debt figure was 26% greater than GNP. In 1946, after the wartime years of rationing and wage-price controls, GNP actually topped debt. In 1929, at the end of another economic boom, debt was 71% larger than GNP—a fact that may provide some comfort to those who fear another credit collapse impends.

Of the more than $1.3 trillion of non-Federal debt, corporate debt accounts for $642.5 billion, easily the largest share. In 1960, this debt totaled $302.8 billion, less than half the latest sum. The 1969 figure amounts to 69% of last year's GNP. In 1960, the comparable percentage was 60%, and in 1946 it stood at 45%. In 1929, corporate debt came to 86% of GNP, considerably above the 1969 figure.

Few economists view the rise of corporate debt as signaling another 1929 debacle. But many regard the present situation as worse than the so-called credit crunch of 1966–67.

Alan Greenspan, president of Townsend-Greenspan & Co., a New York City economics consulting firm, declares that "corporate liquidity is obviously eroding." In addition, Mr. Greenspan says, corporations' loan commitments from banks "appear to have run down very sharply," although there are no official statistics to document this. Within the next six months or so, the economist says, "I wouldn't be at all surprised to see at least a couple of major corporate bankruptcies." Also, he fears, "we will probably see some small and medium-sized financial institutions in deep trouble."

A COMPARISON WITH 1966

Altogether, Mr. Greenspan concludes, "this is definitely a worse situation than the 1966–67 crunch." In 1966, he says, most executives were unfamiliar with a severe credit squeeze. Accordingly, "there was perhaps more public expression of concern in 1966 than now," he says. "But the underlying figures are worse today."

There are various ways to look at the figures—and most lend support to Mr. Greenspan's appraisal.

In 1966, corporate debt amounted to 67% of GNP, two percentage points below the 1969 level. In 1966, corporate cash—including Government securities as well as actual cash—stood at about 26% of corporations' current liabilities—obligations that must be paid within a comparatively short time, generally within a year. In 1969, the cash-to-liabilities ratio was 21%. In 1966, corporate profits totaled $29 billion, after tax and dividend payments. In 1969, the total was some $3 billion less.

The most obvious significance of the corporate cash squeeze is that it clearly increases the risk of major bankruptcies. But if such bankruptcies do not materialize, many analysts envisage other troublesome repercussions.

A. Gary Shilling, chief economist of Merrill Lynch, Pierce, Fenner & Smith Inc., believes that general economic activity will respond more slowly now to any easing of Federal Reserve monetary policy, which has been highly restrictive since early last year. "When the Fed starts to ease up, everyone will be busy rebuilding liquidity," Mr. Shilling says. "This will tend to delay the economic impact of renewed monetary growth."

A similar appraisal comes from Smilen & Safian Inc., a New York investment advisory firm. In an economic review, the service warns that "the problems of illiquidity so pervade all sectors of our financial structure that . . . a more permissive (monetary) policy . . . can only allow time to work out problems, but will not induce increased economic growth."

Smilen & Safian, among other observers, also believes that the cash shortage may tend to further depress stock prices in coming months. Rebuilding "financial balance," the firm's report states, probably will require "a massive infusion of equity capital into the aggregate corporate capitalization"—in other words, corporations most likely will be forced to turn increasingly to the stock market to raise cash. The trend, the report predicts, will disabuse investors of the "popular belief" that stock prices must rise in the long run because an "infinite" supply of investment money always chases a "finite" supply of stocks.

Smilen & Safian shares the view that the credit situation today is shakier than in the 1966–67 crunch. Reviewing various measures of bank liquidity, for example, the investment service warns that "the situation today is more serious" than in 1966–67. "If the economy and corporate profits turn down in the near future," as many economists believe is in fact happening, "we may be confronted with a series of business failures on a scale not seen in some time," the firm concludes.

ANOTHER WORRY

While the big climb of corporate debt constitutes the number one concern of many analysts, the rise of noncorporate private debt also is causing worry. This debt, mainly made up of consumer borrowing and mortgages, stands now at about 58% of GNP. This percentage is about unchanged from the comparable 1966 figures, but considerably higher than the 52% rate of 1960.

Statistics compiled by John Gorman, a Commerce Department economist, show the persistent rise of the consumer debt burden. In 1960, some 19% of consumers' after-tax income was consumed by interest charges and repayments on mortgages and instalment loans, according to Mr. Gorman. By 1966, the figure reached 21% and it now is close to 23%, about double the ratio of 20 years ago.

The present consumer debt load, while worrisome, probably won't lead to widespread trouble unless "unemployment gets up near the 8% range," Mr. Gorman says; the December rate was 3.4%. Mr. Gorman notes that various tax changes will tend to increase consumer incomes in coming months. "One can make the argument that consumers are actually better off financially than many big corporations and institutions," the economist remarks.

TOUGHER COLLECTIONS

Statistics that bear on credit difficulties suggest both businesses and consumers are beginning to encounter increasing trouble. Current liabilities of businesses that failed rose 16% in a recent 12-month period, and the percent of consumer instalment loans delinquent for 30 days or more also climbed, though not quite so sharply. In addition, the American Collectors Association, a trade group, recently reported a sharp increase in the number of consumer credit accounts turned over to agencies for collection.

Further evidence of mounting trouble was contained in a report this week by Dun & Bradstreet Inc. that commercial and industrial failures rose to 185 in the week ended Jan. 22, up from 182 a week earlier and 162 a year earlier. Dun & Bradstreet has counted 670 failures in 1970, up from 593 in the comparable 1969 period.

Some analysts caution against attaching too much importance to such statistics. "There's no doubt that credit problems have increased recently," says William F. Butler, a vice president and economist for Chase Manhattan Bank. "But I feel it would be extremely premature to conclude that these problems are any sort of prelude to a major credit collapse." Mr. Butler notes that retail sales generally have been sluggish in recent months and claims that traditionally such slowdowns bring "a shakeout of the smaller, unstable businesses."

Some economists who remain relatively unconcerned about the rise of debt note that savings also have climbed substantially in recent years. Just since 1966 public holdings of savings-type assets—time deposits at banks, savings bonds, short-term Government securities and savings and loan deposits—have climbed nearly $100 *billion* to $526 billion. Such assets amount to about 55% of GNP, slightly below the 1966 level but appreciably above the 52% rate of 1960.

Analysts who find little comfort in such saving statistics contend, among other things, that most savers are not greatly in debt. Statistics that would confirm this argument are sketchy. But studies by the Survey Research Center of the University of Michigan do suggest that savings in the U.S. indeed are highly concentrated. For example, one Resarch Center survey found that fully half of the nation's families have less than $1,000 in savings, even including stocks and bonds.

[From the Dallas Morning News, Dec. 27, 1969]

AUTO REPOSSESSIONS SOAR—RATE CONSIDERED BAROMETER OF ECONOMY

(By Earl Golz)

The repossession rate for cars has gone up to almost 200 vehicles a month at First National Bank here, a spokesman said Friday.

Repossessed cars amounted to 119 of the 193 cars on the lot last week when Boedeker-Verner Motors went out of business after more than 20 years, the general manager said.

The boom in repossessed cars is a good barometer of the economy in Dallas and in other large cities, for that matter, people in the banking and auto dealers' business who were interviewed said Friday.

"It's hard to put your finger on it and say this is the reason," said Kenneth G. Davidson of the First National Bank. "But I would say it's the economy in general. Money is tight and it has a bearing on it, no doubt."

Davidson, assistant to the bank's collection manager, said repossession of cars at his institution was 25 to 30 per cent greater in the last three months of 1969 than it was in the same period a year ago.

The repossession rate is now "almost 200 a month," Davidson said. A spokesman at Republic National Bank didn't have a monthly total available, but he said the 25 to 30 per cent increase in auto repossessions is "probably generally true" for his bank in recent months.

"It has generally resulted in the reclaiming of collateral everywhere when you are in a delinquent situation," the officer at Republic said.

Roy L. Stack, Jr., general manager of Boedeker-Verner when it sold out to the Dodge factory, said the 119 repossessed cars crowding his lot was a "big factor" in closing out business.

"Let's face it, it didn't help any, fighting to keep your head above water," Stack said. "On repossession, nobody loses but the dealer. What this state needs is tougher financing laws."

Stack said he has repossessed as many as 10 cars a day and some cars "a sixth and seventh time. . . . You'd be surprised how many first payment defaults there are."

"In Dallas now, I'll guarantee you, repossessions will run into thousands a month," Stack said. "I've seen as many as 46 cars repossessed in one month at our place. You can't keep enough cars going out the front door to offset those coming in the back door."

William Foster, used car manager at Van Winkle Motor Co., said his firm "is retailing about eight repossessed cars a month." But the loss dealers are absorbing is more significant to Foster than the number of cars.

The average loss of about $1,000 for each car repossessed, Foster said, "is about twice as much as it was a year ago." Most of the repossessed cars are "pretty banged up because if you're not going to pay for it, you aren't going to care for it."

A popular point at which a car is repossessed is when the third and fourth payments aren't made, Foster said. Davidson said his bank has seen "lots of people run into trouble on the fourth, fifth and sixth payments . . . at two payments due, constituting 30 days, we repossess."

Davidson said people in the building trades profession, which has been hit hard by the building lag, have had cars repossessed more than any others.

"To a certain extent people are moving around more extensively than in the past," Davidson said. "I don't know if it is the slowdown in the building trades industry or not. In a lot of cases we've had to trace them by one address to another. Quite a few repossessions are in other states."

Foster said increasing interest rates are causing many repossessions. Stack said it is "just the increased economy in general—the rising cost of autos, increased finance rates and higher costs of insurance."

TENNIS WORLD SHOULD BOYCOTT SOUTH AFRICAN MATCHES IN LIGHT OF ASHE VISA REJECTION

(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, the decision by the Government of South Africa to exclude Arthur Ashe from the South African open tennis championships is not surprising, but nonetheless an outrage. It is equally wrong whether the denial of a visa was on racial grounds or was, as stated by the South African authorities, because of Mr. Ashe's open criticism of the doctrine of apartheid.

Such exclusionary policies should not be condoned either by governments or by the athletes who participate in international sports competition.

I urge the American Davis Cup team to refrain from playing in South Africa as long as Ashe is excluded from competing as a private individual in that country. I would hope that the U.S. Lawn Tennis Association will support this idea by urging all its members to boycott tennis tournaments in South Africa until this odious ban is revoked.

I believe that all members of the tennis world and, moreover, all those who believe in freedom and equity, and who share my anger at this injustice done to Mr. Ashe, should stand up together against this further evidence of South Africa's intolerable policies.

TAKE PRIDE IN AMERICA

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

Mr. MILLER of Ohio. Mr. Speaker, output per man-hour in the U.S. economy more than doubled in the period from 1947 to 1968.

FORWARD TOGETHER IN SPLENDOR AND STYLE

(Mr. CHARLES. H. WILSON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. CHARLES H. WILSON. Mr. Speaker, although the doctors consistently warn against it, I am afraid I had no choice the other night as I watched the late news but to let my heart swell with grand and glorious pride as I watched the opulence, the splendor, the pageantry, and the pride of my country's highest officer surrounded grandiloquently by a bevy of palace guards decked out in such resplendence and majesty as to move the hearts and minds of the most exalted and revered emperors in all the world's history.

Mr. Speaker, let me assure you and my distinguished colleagues that Gilbert and Sullivan are alive and well, tucked neatly away within the confines of the White House or, as it soon may be called, the Alabaster Palace.

The pirates of Penzance had nothing on the newly refurbished White House Police guard uniforms. In their softly shaded buttermilk tunics, topped with ebony vinyl caps fit for a Kaiser's fondest dreams, they are worthy to line the Grand Canal for the passage of a royal barge—perhaps even the H.M.S. *Pinafore*.

Certainly we are all familiar with the stories of President George Washington's difficult decision as to how he, as the leader of a newly independent land settled largely by refugees from imperial Europe and the British monarchy, should be addressed. What title would be proper? Most exalted ruler? Too gushy. King? That reeked of rulers past. President. President was perfect—thoroughly adequate, carrying all the dignity necessary for the new leader without alluding to any of the less savory characteristics of nations fled. Having now seen President Nixon's latter-day palace guard, I feel I must ask, will George Washington's humble decision stand? Or will San Clemente cease to be affectionately known as the "Western White House" and soon be dubbed the "Summer Palace"? Might the President contemplate trading his bombproof Lincoln for a coach and four? Who can say?

One thing is clear. President Nixon apparently brought back more than foreign policy ideas from his trips around the globe last year. While Charles de Gaulle may have now faded from earlier prominence, the historical rulers of imperial Europe are obviously on the comeback trail. Judging from Tuesday's reception on the White House lawn for British Prime Minister Harold Wilson, Mr. Nixon evidently has some very definite ideas about what "splendor in the grass" can mean to a foreign dignitary.

If we are to believe the pundits who claim that Prime Minister Wilson can use the favorable publicity of an impressive Washington welcome in his next election campaign, and if we are to believe the historians who tell us that the British people have always had a soft spot for pomp and circumstance, it appears as though Mr. Wilson could be headed for a cream-colored vinyl-topped landslide with a generous side order of ruffles and flourishes.

It is most difficult to refrain from imagining what manner of pomp the President may be reserving for future visitors to the shrine at 1600 Pennsylvania Avenue NW. Perhaps the circle drive, paved with Aztec gold for the leader of our Mexican neighbors to the south. Maybe richly woven oriental rugs stretching across the less resplendent crabgrass for our Asian friends. And why not an orange roof for weary travelers and Astroturf for the Nation's No. 1 football team—if such a distinction will ever be ventured again. Surely the horizons of hospitality are broad and limitless.

It is said that we have passed into the era of a pastel, cloth coat administration. Our mistake, of course, was to fail to realize that this was to be a universally applied characteristic. The Nixon doctrine may not be all things to all men, but it is certainly some things to some men—including the White House Police.

In all seriousness, let me state that I do not for a moment question the President's right to add a few personal touches to his surroundings. He is not the first President to do so and he is unlikely to be the last. And the White House is certainly the place for class and dignity. Let me be very clear about that.

At $95 apiece these 100 uniforms are perhaps less inflationary than such outrageous items as hospital construction, library books, and cancer research. If the President feels more secure requesting more antiballistic missiles and vetoing Health, Education, and Welfare measures from an oval throneroom, safely

protected by an elite corps of elegantly attired guardsmen, this is clearly his privilege. And if the policemen feel a bit strange eating such simple fare as baloney sandwiches while dressed to the teeth, then let them eat cake. After all, he is the President. Make no mistake about that.

ROGERS POINTS TO CONSUMER GAP, ASKS INDUSTRIES TO RECALL DANGEROUS TV SETS

(Mr. ROGERS of Florida asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROGERS of Florida. Mr. Speaker, the National Commission on Product Safety released a report which points out that certain television models represent a potential fire hazard.

As many as 122 models of color television sets were found that might be hazardous. Eleven companies manufacture these 122 models. RCA, I am pleased to learn, has started to recall those models which are faulty and I commend this action. But the other 10 have remained silent on this matter.

I feel that these 10 companies should immediately start a recall program, either directly or through their dealers, to return and repair those sets which were identified in the Commission report.

This entire incident is another example of the consumer gap between the public and the Government agencies and departments which are supposed to be protecting the public.

When we try to trace down the agency or department which has the responsibility, we can find none. The Bureau of Radiological Health says it has no jurisdiction because the problem is not one of a radiological nature.

Food and Drug Administration says that this type of product is outside its jurisdiction of the Hazardous Substances Act.

About the only entree we have left is the Federal Trade Commission, which might stretch its jurisdiction and say that selling televisions which prove to be fire hazards is a deceptive practice. I am encouraged to learn that FTC is meeting to see just how this situation fits into the deceptive practices law.

The American public should have confidence in the products they buy, because of industry integrity and because of Federal regulations designed to protect them. But each month we find another example of the consumer gap.

The range goes from food additives to warranties on products to the food we eat.

There must be a halt to the haphazard manner which the Government has taken to protect the American consumer.

BRUTAL SLAUGHTER OF SEALS MUST CEASE

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

Mr. RYAN. Mr. Speaker, I have today introduced a concurrent resolution, the purpose of which is to urge the Secretary of the Interior to prescribe and implement, immediately, regulations for the quick and painless killing of northern fur seals, who are annually hunted for their fur.

Present harvesting methods involve the use of large clubs to kill—or at least stun—the animals. While in most instances the seals, even if alive, are unconscious while being skinned, this whole process is one of brutality. Clubbing causes needless pain and suffering to these animals, whose only reason for dying is to provide pelts for clothing.

The process of seal harvesting—from the hiring of the harvesters to the prescribed method of slaughter—is conducted pursuant to the authority of the Secretary of the Interior under powers granted to him in the Fur Seal Act of 1966, Public Law 89-702.

My resolution would instruct the Secretary of the Interior to prescribe and implement, at the earliest time possible, regulations for harvesting of the seals. A quick and painless method for doing so—using carbon monoxide gas—has been devised. This method would be inexpensive, and because of its simplicity, would require no retraining of the harvesters. None of the Pribilof Islanders who now participate in the harvesting would be put out of work.

I understand that the Department of the Interior is aware of the carbon monoxide procedure, and has been working in cooperation with the Humane Society in investigating it. Thus, there is no excuse for continuing the brutal slaughtering methods now being employed. I, therefore, urge my colleagues to support this resolution, and thereby make clear to the Secretary of the Interior our will.

DECLARATION IN SUPPORT OF PEACE IN THE MIDDLE EAST

(Mr. SYMINGTON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SYMINGTON. Mr. Speaker, the Honorable Congresswoman from Missouri, Mrs. LEONOR K. SULLIVAN, has joined with me in the following statement concerning the Middle East:

We, the undersigned Members of the United States Congress, declare: A just and lasting peace in the Middle East is essential to world peace.

The parties to the conflict must be parties to the peace achieved by means of direct, unhampered negotiations. We emphasize these significant points of policy to reaffirm our support for the democratic State of Israel which has unremittingly appealed for peace for the past 21 years. Our declaration of friendship for the State of Israel is consistent with the uninterrupted support given by every American President and the Congress of the United States since the establishment of the State of Israel.

It would not be in the interest of the United States or in the service of world peace if Israel were left unarmed in face of the continuing flow of sophisticated offensive armaments to the Arab nations supplied by the Soviet Union and other sources. We thus adhere to the principle that the deterrent strength of Israel must not be impaired. This is essential to prevent full-scale war in the Middle East.

All the people of the Middle East should have the common goal of striving to wipe out the scourges of disease, poverty, illiteracy and to meet together in good faith to achieve peace and turn their swords into ploughshares.

INFLATION AS A FIRST-PRIORITY ITEM

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

Mr. HALL. Mr. Speaker, yesterday this House showed overwhelmingly its recognition of inflation as a first-priority problem.

It made that recognition so plain and in such a bipartisan fashion that there should be no room for doubt, either in the minds of the heavily financed education lobby or in the minds of those who have sought to twist the President's reasons for vetoing the HEW appropriations bill.

Mr. Speaker, the President's veto and the action of this House in sustaining it were not political.

They were not anti-education.

Neither were they anti-children or anti-teacher.

But they were anti-inflationary. And they were pro all-Americans.

We all know that. Certainly the honorable majority leader knows it when he speaks out about the right of the Congress to appropriate money, even though I decry his choice of words and politically inspired railing invectives against the President of us all.

The former Vice President, who still hopes to ride the votes of special interest groups to the Presidency knows it, when he talks about the children and the sick and the needy.

Mr. Speaker, I think we can do without much more of this political nonsense. And I know we would be better off if we buckled down now, and voted out an appropriations bill the President can sign without abdicating his responsibilities to all the people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEPPER (at the request of Mr. BOGGS), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. PRICE of Texas (at the request of Mr. BEALL of Maryland), for 15 minutes, today; to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. DANIEL of Virginia) and to revise and extend their remarks and include extraneous matter:)

Mr. REUSS, for 60 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DONOHUE (at the request of Mr. DANIEL of Virginia) in two instances and to include extraneous matter.

Mr. COLMER and to include extraneous matter.

Mr. ICHORD and to include a study made by the Library of Congress on the constitutionality of the legislation considered in the Committee of the Whole today.

Mr. HAGAN in three instances.

(The following Members (at the request of Mr. BEALL of Maryland) and to include extraneous matter:)

Mr. MARTIN.
Mr. DEVINE.
Mr. SCHERLE in two instances.
Mr. ZWACH.
Mr. KEITH.
Mr. CONABLE.
Mr. FULTON of Pennsylvania in five instances.
Mr. WYMAN in two instances.
Mr. UTT.
Mr. ROBISON in four instances.
Mr. HOGAN in two instances.
Mr. DERWINSKI in two instances.
Mr. FINDLEY.
Mr. HOSMER in three instances.
Mr. LANDGREBE.
Mr. TALCOTT in three instances.
Mr. BROTZMAN.
Mr. HUNT.
Mr. QUILLEN.
Mr. BLACKBURN.
Mr. PIRNIE in two instances.
Mr. STEIGER of Wisconsin.
Mr. WHALLEY.
Mr. COUGHLIN.
Mr. WOLD.
Mr. BROWN of Michigan.

(The following Members (at the request of Mr. DANIEL of Virginia) and to include extraneous matter:)

Mr. LONG of Maryland.
Mrs. GRIFFITHS in two instances.
Mr. GONZALEZ in two instances.
Mr. CAREY in two instances.
Mr. CELLER.
Mr. HUNGATE in four instances.
Mr. NICHOLS in two instances.
Mr. MATSUNAGA in two instances.
Mr. GALLAGHER.
Mr. CHARLES H. WILSON.
Mr. O'NEAL of Georgia in two instances.
Mr. GIBBONS.
Mr. ALBERT.
Mr. RODINO.
Mr. VANIK in two instances.
Mr. BROWN of California in four instances.
Mr. MURPHY of New York in two instances.
Mr. GALIFIANAKIS.
Mr. RARICK in three instances.
Mr. ASHLEY.
Mr. FOUNTAIN in five instances.
Mr. SYMINGTON in two instances.
Mr. FRASER.
Mr. FISHER in three instances.
Mr. EDMONDSON in three instances.
Mr. TEAGUE of Texas in 10 instances.
Mr. BINGHAM in three instances.
Mr. STEPHENS.
Mr. PICKLE in three instances.
Mr. PUCINSKI in two instances.
Mr. ROONEY of New York.
Mr. RYAN in three instances.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on January 28, 1970, present to the President, for his approval, a bill of the House of the following title:

H.R. 15149. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes.

ADJOURNMENT

Mr. DANIEL of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Monday, February 2, 1970, 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:

1559. A letter from the Secretary of Commerce, transmitting a report relative to obligations made in excess of appropriations by the Maritime Administration, pursuant to the provisions of 31 U.S.C. 665(i)(2); to the Committee on Appropriations.

1560. A letter from the Secretary of Labor, transmitting the report for calendar year 1969 relative to exemplary rehabilitation certificates, pursuant to the provisions of Public Law 89–690; to the Committee on Armed Services.

1561. A letter from the Chairman, Water Resources Council, transmitting the Council's views on the National Water Commission's Annual Report for 1969, pursuant to the provisions of Public Law 90–515; to the Committee on Interior and Insular Affairs.

1562. A letter from the Chairman, Interstate Commerce Commission, transmitting a report of the final valuations of properties of carriers subject to the Interstate Commerce Act, pursuant to the provisions of section 19a of the act; to the Committee on Interstate and Foreign Commerce.

1563. A letter from the Executive Director, Federal Communications Commission, transmitting a report on backlog of pending applications and hearing cases in the Federal Communications Commission as of December 31, 1969, pursuant to the provisions of section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1564. A letter from the Postmaster General, transmitting a draft of proposed legislation to permit the acceptance of checks and nonpostal money orders in payment for postal charges and services; authorize the Postmaster General to relieve postmasters and accountable officers for losses incurred by postal personnel when accepting checks or nonpostal money orders in full compliance with postal regulations; and to provide penalties for presenting bad checks and bad nonpostal money orders in payment for postal charges and services; to the Committee on Post Office and Civil Service.

1565. A letter from the Postmaster General, transmitting a draft of proposed legislation to correct certain provisions of law relating to the postal service; to the Committee on Post Office and Civil Service.

1566. A letter from the Comptroller General of the United States, transmitting a report for calendar year 1969 concerning positions in the U.S. General Accounting Office in grades GS–16, GS–17, and GS–18, pursuant to the provisions of 5 U.S.C. 5114; to the Committee on Post Office and Civil Service.

1567. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on proposed actions by NASA to conduct certain programs at levels in excess of those authorized in the National Aeronautics and Space Administration Authorization Act, 1970, pursuant to section 4 of the act and Rule XL of the House of Representatives; to the Committee on Science and Astronautics.

1568. A letter from the Special Representative for Trade Negotiations, Executive Office of the President, transmitting a report summarizing antidumping actions taken by other countries against U.S. exports for the period July 1, 1968–June 30, 1969, pursuant to the provisions of section 201(b), title II, Public Law 90–634; to the Committee on Ways and Means.

1569. A letter from the Postmaster General, transmitting a report of the estimated losses or costs during the current fiscal year in the performance of public services, pursuant to the provisions of section 201 of Public Law 87–793; to the Committee on Post Office and Civil Service.

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. FASCELL: Committee on Foreign Affairs. S.J. Res. 131. Joint resolution to welcome the U.S. Olympic delegations authorized by the International Olympic Committee; without amendment (Rept. No. 91–810). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 15613. A bill to amend the Clean Air Act to ban pollution-causing internal-combustion engines in motor vehicles after January 1, 1975; to the Committee on Interstate and Foreign Commerce.

By Mr. COLMER:

H.R. 15614. A bill to amend the Civil Rights Act of 1964 by adding a new title, which restores to local school boards their constitutional power to administer the public schools committed to their charge, confers on parents the right to choose the public schools their children attend, secures to children the right to attend the public schools chosen by their parents, and makes effective the right of public school administrators and teachers to serve in the schools in which they contract to serve; to the Committee on the Judiciary.

By Mr. FULTON of Pennsylvania:

H.R. 15615. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KOCH:

H.R. 15616. A bill relating to the tax treatment of transfers of rights to copyrights and literary, musical, and artistic compositions; to the Commitee on Ways and Means.

By Mr. MARTIN:

H.R. 15617. A bill to make certain revisions in Public Laws 815 and 874, 81st Congress, relating to Federal assistance for the construction and operation and maintenance of public schools in federally impacted areas; to the Committee on Education and Labor.

By Mr. O'NEAL of Georgia:

H.R. 15618. A bill to define the application and effective date of court orders effecting desegregation of faculty and students in public school systems; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 15619. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on the Judiciary.

By Mr. ROONEY of Pennsylvania:

H.R. 15620. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SPRINGER:

H.R. 15621. A bill to provide Federal financial assistance to opportunities industrialization centers; to the Committee on Education and Labor.

By Mr. BROYHILL of Virginia:

H.R. 15622. A bill to provide for the establishment of a memorial at the National Arboretum to Benjamin Henry Boneval Latrobe; to the Committee on Public Works.

By Mr. CELLER:

H.R. 15623. A bill to amend title 10, United States Code, to broaden the authority of the Secretaries of the military departments to settle certain admiralty claims administratively, and for other purposes; to the Committee on the Judiciary.

By Mr. EDMONDSON:

H.R. 15624. A bill to convey certain federally owned land to the Cherokee Tribe of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. FRASER:

H.R. 15625. A bill to provide certain height restrictions on towers erected in the District of Columbia for broadcasting stations; to the Committee on the District of Columbia.

By Mr. HARSHA:

H.R. 15626. A bill to amend title 5 of the United States Code to provide for the immediate retirement of Federal personnel employed in Veterans' Administration neuropsychiatric hospitals or facilities after attaining 50 years of age and completing 20 years of such service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McMILLAN:

H.R. 15627. A bill to provide for the fair and impartial letting of public contracts; to the Committee on the District of Columbia.

By Mr. MORGAN:

H.R. 15628. A bill to amend the Foreign Military Sales Act; to the Committee on Foreign Affairs.

By Mr. OBEY (for himself, Mr. CULVER, and Mr. MELCHER):

H.R. 15629. A bill to require the Secretary of Agriculture to make advance payments to producers under the feed grain program; to the Committee on Agriculture.

By Mr. STAGGERS (for himself, Mr. SPRINGER and Mr. McCLOSKEY):

H.R. 15630. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require that the label of drug containers, as dispensed to the patient, bear the established or trade name, the quantity, and strength of the drug dispensed; to the Committe on Interstate and Foreign Commerce.

By Mr. ALEXANDER:

H.R. 15631. A bill to incorporate the National River Academy of the United States of America; to the Committee on Judiciary.

By Mr. CHAPPELL:

H.R. 15632. A bill to require the payment of interest on escrow accounts held in connection with residential real estate mortgage loans; to the Committee on Banking and Currency.

By Mr. CRAMER:

H.R. 15633. 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.

By Mr. CRAMER (for himself, Mr. HARASHA, Mr. GROVER, Mr. CLEVELAND, Mr. DON H. CLAUSEN, Mr. McEWEN, Mr. DUNCAN, Mr. SCHWENGEL, Mr. SCHADEBERG, Mr. SNYDER, Mr. DENNEY, Mr. ZION, Mr. McDONALD of Michigan, Mr. HAMMERSCHMIDT, and Mr. MILLER of Ohio):

H.R. 15634. A bill to provide that the Federal office building and U.S. Courthouse in Chicago, Ill., shall be named the "Everett McKinley Dirksen Building East" and that the Federal office building to be constructed in Chicago, Ill., shall be named the "Everett McKinley Dirksen Building West'" in memory of the late Everett McKinley Dirksen, a Member of Congress of the United States from the State of Illinois from 1933 to 1969; to the Committee on Public Works.

By Mr. DAVIS of Georgia:

H.R. 15635. A bill to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.R. 15636. A bill to permit State agreements for coverage under the hospital insurance program for the aged; to the Committee on Ways and Means.

By Mr. GREEN of Pennsylvania:

H.R. 15637. A bill to prevent further increases in the monthly premium payable for supplementary medical insurance under part B of the medicare program established by title XVIII of the Social Security Act, and for other purposes; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.R. 15638. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning ecological-environmental education, and to establish a National Advisory Commission on Technology and the Environment; to the Committee on Education and Labor.

By Mr. NICHOLS:

H.R. 15639. A bill to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. O'NEILL of Massachusetts (for himself, Mr. BOLAND, Mr. DONOHUE, Mr. PHILBIN, Mr. BURKE of Massachusetts, Mr. HARRINGTON, Mr. ST GERMAIN, Mr. DELANEY, and Mr. MURPHY of Illinois):

H.R. 15640. A bill to amend the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. PRYOR of Arkansas:

H.R. 15641. A bill to amend title 38 of the United States Code so as to provide that monthly social security benefit payments and annuity and pension payments under the Railroad Retirement Act of 1937 shall not be included as income for the purpose of determining eligibility for a veteran's or widow's pension; to the Committee on Veterans' Affairs.

By Mr. ROGERS of Florida:

H.R. 15642. A bill to provide that no funds appropriated by the Congress may be used to force busing of students, the abolishment of any school, or the attendance of students at a particular school; to the Committee on Education and Labor.

By Mr. RYAN:

H.R. 15643. A bill to provide supplemental appropriations to fully fund the urban renewal, model cities, rent supplement, and low-income homeownership and rental housing assistance programs for the fiscal year 1970, and for other purposes, including jobs in housing; to the Committee on Appropriations.

H.R. 15644. A bill to amend the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1970, to increase to the full authorized amount the maximum annual interest reduction payments which may be contracted for through the fiscal year 1970 under section 236 of the National Housing Act; to the Committee on Appropriations.

By Mr. TIERNAN:

H.R. 15645. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST:

H.R. 15646. A bill to amend title 38 of the United States Code to provide that the amount of any statutory or administrative general increase after November 1969 in benefits under a Federal retirement or other annuity program shall be excluded in determining eligibility for veterans' compensation and pension; to the Committee on Veterans' Affairs.

By Mr. RYAN:

H. Con. Res. 495. Concurrent resolution expressing the sense of Congress that the Secretary of the Interior prescribe and implement regulations for the harvesting of northern fur seals to insure quick and painless death before skinning; to the Committee on Merchant Marine and Fisheries.

H. Con. Res. 496. Concurrent resolution creating a Joint Congressional Committee on the Environment; to the Committee on Rules.

By Mr. BUCHANAN (for himself, Mr. DERWINSKI, Mr. CRANE, Mr. BEVILL, Mr. BRAY, Mr. CAMP, Mr. DENNEY, Mr. FOREMAN, Mr. GOLDWATER, Mr. HANSEN of Idaho, Mr. ROUDEBUSH, and Mr. SCHADEBERG):

H. Res. 809. A resolution to express the sense of the House with respect to peace in the Middle East; to the Committee on Foreign Affairs.

By Mrs. HANSEN of Washington (for herself, Mr. FLYNT, Mr. DINGELL, Mr. McDADE, Mr. ROGERS of Florida, and Mr. REIFEL):

H. Res. 810. A resolution to provide for a select committee to investigate oil and pipeline operations in Alaska; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HICKS introduced a bill (H.R. 15647) for the relief of Mr. and Mrs. Ralph W. Smith, which was referred to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

276. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Kentucky, relative to continuation of Federal price supports for burley tobacco; to the Committee on Agriculture.