HOUSE OF REPRESENTATIVES—*Tuesday, September 15, 1970*

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore, Mr. ALBERT.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

SEPTEMBER 15, 1970.

I hereby designate the Honorable CARL ALBERT of Oklahoma to act as Speaker pro tempore today.

JOHN W. MCCORMACK.

PRAYER

Rev. Msgr. Joseph A. Dooling, archdiocesan director, Mount Carmel Guild, Newark, N.J., offered the following prayer:

With Your divine guidance and under Your inspiration, we invoke Your blessing, O God, upon all those who share in Your divine task to conserve the world and its creatures.

You have shared with all creation Your divine power to continue the work of Your hand. To some, more of this than to others. But to all, with this power You have given proportionate responsibility, to recognize Your divine will for life and conduct—to maintain and preserve the relationship of creature to Creator. You have even shown us the secrets of Your divine power and intelligence. You have entrusted to those for whom it is our privilege to pray today—the structure of Your law in the conduct of man's relationship to You and his fellow man.

From the first moment of creation until its very end—law and order—will be the prime force for every good—and all good—even if this life ceases when You—our God—are forgotten as our first beginning and our last end.

In all sharing, God's power becomes man's power—and like God, man can rule the present and future destiny of his fellow man.

Bless these chosen ones, then, with Your special inspiration, O God—for law is the hinge upon which man's life turns.

Let us always be mindful that liberty and justice for all, under God—preserves His divine will—the rights of the individual and our Nation breathes in all its glory. Amen.

THE JOURNAL

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

MESSAGE FROM THE PRESIDENT

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

On August 11, 1970:

H.R. 914. An act for the relief of Hood River County, Oreg.; and

H.R. 14619. An act for the relief of S. Sgt. Lawrence F. Payne, U.S. Army (retired).

On August 12, 1970:

H.R. 15733. An act to amend the Railroad Retirement Act of 1937 to provide a temporary 15-percent increase in annuities, to change for a temporary period the method of computing interest on investments of the railroad retirement accounts, and for other purposes; and

H.R. 17070. An act to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

On August 14, 1970:

H.R. 1453. An act for the relief of Capt. Melvin A. Kaye;

H.R. 1697. An act for the relief of Jack Brown;

H.R. 2209. An act for the relief of Carlos DeMarco;

H.R. 2407. An act for the relief of Elbert C. Moore;

H.R. 5337. An act for the relief of the late Albert E. Jameson, Jr.;

H.R. 6375. An act for the relief of Amalia P. Montero;

H.R. 6850. An act for the relief of Maj. Clyde Nichols (retired);

H.R. 9092. An act for the relief of Thomas J. Condon;

H.R. 12176. An act for the relief of Bly D. Dickson, Jr.; and

H.R. 15354. An act for the relief of Anthony P. Miller, Inc.

On August 17, 1970:

H.R. 1703. An act for the relief of the Clayton County Journal and Wilber Harris;

H.R. 1728. An act for the relief of Capt. Norman W. Stanley;

H.R. 2241. An act for the relief of John T. Anderson;

H.R. 2458. An act for the relief of Frank J. Enright;

H.R. 2481. An act for the relief of Cmdr. John W. McCord;

H.R. 2950. An act for the relief of Edwin E. Fulk;

H.R. 3558. An act for the relief of Thomas A. Smith;

H.R. 3723. An act for the relief of Robert G. Smith;

H.R. 6377. An act for the relief of Lt. Col. Earl Spofford Brown, U.S. Army Reserve (retired);

H.R. 9591. An act for the relief of Elgie L. Tabor;

H.R. 10662. An act for the relief of Walter L. Parker;

H.R. 11890. An act for the relief of T. Sgt. Peter Elias Gianutsos, U.S. Air Force (retired);

H.R. 12622. An act for the relief of Russell L. Chandler;

H.R. 12887. An act for the relief of John A. Avdeef; and

H.R. 15118. An act to provide for the striking of medals in commemoration of the 100th anniversary of the founding of Ohio Northern University.

On August 18, 1970:

H.R. 14114. An act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes; and

H.R. 16915. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes.

On August 20, 1970:

H.R. 17711. An act to amend the District of Columbia Cooperative Association Act, and for other purposes.

On August 24, 1970:

H.R. 12446. An act to confer U.S. citizenship posthumously upon Jose Guadalupe Esparza-Montoya;

H.R. 13997. An act to confer U.S. citizenship posthumously upon S. Sgt. Ryuzo Somma;

H.R. 14956. An act to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty; and

H.R. 15866. An act to repeal the act of August 25, 1959, with respect to the final disposition of the affairs of the Choctaw Tribe.

On August 28, 1970:

H.R. 5655. An act for the relief of Low Yin (also known as Low Ying);

H.R. 12400. An act for the relief of Tae Pung Hills;

H.R. 13265. An act to confer U.S. citizenship posthumously upon L.Cpl. Frank J. Krec;

H.R. 13895. An act for the relief of Mrs. Maria Eloisa Pardo Hall;

H.R. 13971. An act granting the consent of Congress to the Falls of the Ohio Interstate Park compact; and

H.R. 15381. An act to amend the District of Columbia Income and Franchise Tax Act of 1947 with respect to the taxation of regulated investment companies.

On September 1, 1970:

H.J. Res. 1194. Joint resolution to authorize the President to designate the period beginning September 20, 1970, and ending September 26, 1970, as "National Machine Tool Week."

H.R. 1749. An act for the relief of Eagle Lake Timber Co., a partnership, of Susanville, Calif.;

H.R. 2849. An act for the relief of Anan Eldredge;

H.R. 6265. An act to provide that a headstone or marker be furnished at Government expense for the unmarked grave of any Medal of Honor recipient;

H.R. 8662. An act to authorize command of the U.S. ship *Constitution* (IX-21) by retired officers of the U.S. Navy;

H.R. 9052. An act to amend section 716 of title 10, United States Code, to authorize the interservice transfers of officers of the Coast Guard;

H.R. 12959. An act for the relief of Gloria Jara Haase;

H.R. 13195. An act to amend title 10 of the United States Code to provide that U.S. flags may be presented to parents of deceased servicemen;

H.R. 13383. An act for the relief of Mrs. Marcella Coslovich Fabretto;

H.R. 13712. An act for the relief of Vincenzo Pellicano; and

H.R. 15374. An act to amend section 355 of the Revised Statutes, as amended, concerning approval by the Attorney General of the title to lands acquired for or on behalf of the United States, and for other purposes.

On September 8, 1970:

H.R. 15351. An act to authorize additional funds for the operation of the Franklin Delano Roosevelt Memorial Commission; and

H.R. 17133. An act to extend the provisions of title XIII of the Federal Aviation Act of 1958, as amended, relating to war risk insurance.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amend-

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ments of the House to the Senate amendments to bills of the Senate of the following titles:

S. 203. An act to amend the act of June 13, 1962 (76 Stat. 96), with respect to the Navajo Indian irrigation project;

S. 434. An act to reauthorize the Riverton extension unit, Missouri River Basin project, to include therein the entire Riverton Federal reclamation project, and for other purposes;

S. 2808. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Minot extension of the Garrison diversion unit of the Missouri River Basin project in North Dakota, and for other purposes; and

S. 2882. An act to amend Public Law 394, 84th Congress, to authorize the construction of supplemental irrigation facilities for the Yuma Mesa Irrigation District, Arizona.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11833) entitled "An act to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. MUSKIE, Mr. EAGLETON, Mr. BOGGS, and Mr. BAKER to be the conferees on the part of the Senate.

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

S. 3418. An act to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine, and to alleviate the effects of malnutrition, and to provide for the establishment of a National Information and Resource Center for the Handicapped.

MONSIGNOR DOOLING IS GUEST CHAPLAIN OF HOUSE

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

Mr. RODINO. Mr. Speaker, it is my warm privilege to welcome Msgr. Joseph A. Dooling as guest Chaplain of the House of Representatives today, not only as a constituent, but as my dear friend.

As archdiocesan director of Mount Carmel Guild, a comprehensive social science agency in Essex County, Monsignor Dooling has been the guiding light of numerous essential community-help programs.

Preschool and community mental health programs, housing, public health, rehabilitation and training programs and senior citizen services have all been furthered by the vision of this selfless and humane man.

Monsignor Dooling is no stranger to the people of New Jersey and to people everywhere who have felt the compassionate services of his good work. His example will always live on in the hearts and minds of those who have known and have had the privilege, as I have had, to work closely with him. He is indeed a man I am proud to call my friend.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON ROADS OF THE HOUSE COMMITTEE ON PUBLIC WORKS TO SIT DURING GENERAL DEBATE TODAY

Mr. DORN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Roads of the House Committee on Public Works be permitted to sit this afternoon during general debate.

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

Mr. HALL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

APPOINTMENT OF CONFEREES ON H.R. 18127 MAKING APPROPRIATIONS FOR PUBLIC WORKS

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 18127) making appropriations for Public Works for water, pollution control, and power development and the Atomic Energy Commission for the fiscal year ending June 30, 1971, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and appoints the following conferees: Messrs. EVINS of Tennessee, BOLAND, WHITTEN, ANDREWS of Alabama, MAHON, RHODES, DAVIS of Wisconsin, ROBISON, and BOW.

THE LATE C. A. "BOB" SELLERS, EDITOR OF THE FORT WORTH PRESS

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

Mr. WRIGHT. Mr. Speaker, Texas and the Nation have lost a distinguished and dedicated newspaperman.

C. A. "Bob" Sellers, editor of the Fort Worth Press, unexpectedly was stricken by a heart attack and died at his home yesterday. Funeral services are being held today, in Meadowbrook Baptist Church in Fort Worth.

Bob's death is a grievous loss to all of us. His leadership will be sorely missed in Fort Worth, and particularly at the helm of the Press.

There was more than just an ordinary editor-newspaper relationship between Bob Sellers and the Press. His whole professional life was dedicated to his newspaper, and he worked unceasingly for its continuing betterment.

He joined the Press just 2 days after his graduation from Baylor University in 1945 and had served in virtually every editorial position on the paper—city hall reporter, assistant city editor, telegraph editor, public service director, and managing editor. In April 1969, at the age of 45, he was named editor.

Bob was born in Yoakum, Tex., but lived most of his life in Fort Worth. In World War II he served in the Army's 86th Division in both Europe and the Pacific.

A journalist of talent and initiative, he had won four first places in news competitions conducted by Sigma Delta Chi, and was a past president of the Fort Worth chapter of the organization. He also was a past president of the Texas United Press International Editors Association.

He was a past member of the Board of Directors of the Fort Worth Chamber of Commerce and of the Tarrant County Red Cross. He was a deacon in the Meadowbrook Baptist Church.

Surviving are his wife, Maudine, and three sons, and a daughter.

MORE FREEDOM IN THE HOUSE GALLERIES

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

Mr. HECHLER of West Virginia. Mr. Speaker, it is against the rules for anyone in the public gallery who is interested in the debates to open a copy of the pictorial directory of the Congress in order to ascertain who is addressing the House. Many of our constituents who are, I am sure, interested in the debates and courteous in their attitude toward the House have been reprimanded for violating the rules when they opened a copy of the bill merely to see what the House is debating. These restrictions are not written into the actual rules of the House but are printed on the back of the visitor's pass to the public galleries with the introductory remarks:

To help make your visit more pleasant, please observe the following rules—no reading or writing in the galleries.

It is for this reason, Mr. Speaker, that at the appropriate point in the consideration of the Legislatvie Reorganization Act I intend to offer an amendment which will allow reading and writing in the galleries under such regulations as the Speaker may prescribe.

REDUCTION OF PRIME INTEREST RATE

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

Mr. PATMAN. Mr. Speaker, I am sending the president of the Bank of America a telegram asking that the Bank of America join the parade in the reduction of interest rates by reducing their prime interest rate to 6 percent.

Mr. Speaker, the telegram is as follows:

SEPTEMBER 15, 1970.

HON. A. W. CLAUSEN,
President, Bank of America,
San Francisco, Calif.:

Last week, I urged your colleague, David Rockefeller of Chase Manhattan National

Bank to take the lead in a badly-needed reduction in the prime lending rate. Public comments by Chase Manhattan officials indicate that bank's reluctance to reduce interest rates and it appears that the leadership must come from other areas of the banking industry. Therefore, I am calling on you as the chief executive officer of the world's largest commercial bank to fill this leadership void and institute an immediate reduction in the prime rate. The public interest demands a reduction to at least 6%.

In contrast to the staid Wall Street institutions, Bank of America has led the way to many innovations in the banking industry and I hope that you will see fit to make banking history through the largest prime rate reduction ever.

WRIGHT PATMAN.

VITAL LEGISLATION STILL PENDING IN CONGRESS

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

Mr. RHODES. Mr. Speaker, in my opinion the President in his message last Friday was correct and on target in pointing out that there is a large backlog of vital legislation on which the Congress has not acted.

I am particularly concerned with the fate of the Revenue Sharing Act of 1969 which the President mentioned in his call for cooperation, calling that legislation "elemental economics, elemental good sense, elemental good government."

The concept of the Federal Government sharing income tax revenues with the States was endorsed by both parties in their 1968 platforms, it has received widespread support from the Nation's Governors and mayors and the public.

Given these facts, it is all the more puzzling why there has been no congressional action on this legislation. The bill was sent up by the President last October but neither the House nor the Senate has yet held hearings.

Mr. Speaker, I understand that the Congress has many pressing matters to deal with but as long as we continue to postpone action on such vital reforms as the Revenue Sharing Act we are justifiably open to charges of neglect and foot dragging.

PROPOSED NATIONAL COMMISSION ON FUELS AND ENERGY

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

Mr. ROTH. Mr. Speaker, on July 21, 1970, I introduced H.R. 18569, a bill which would establish a 21-member National Commission on Fuels and Energy. This bill is a companion bill to S. 4092, which had been introduced earlier in the Senate and which, I understand, enjoys the cosponsorship of over half the Members of the Senate.

Last Thursday and Friday the Senate Interior Committee's Subcommittee on Minerals, Materials, and Fuels held hearings on the Senate version of this bill. Those hearings have now been recessed subject to the call of the chair.

Although I have not had the opportunity to review all the testimony taken at the Senate hearings, I understand that there was general agreement among the witnesses that we are facing an energy crisis of unprecedented proportions and that we had better begin soon to give serious consideration to setting up the mechanism for establishing a coordinated national energy and fuels policy.

It is not anticipated that such a commission could in itself eliminate all shortages of fuel and energy which we may encounter in the next two decades, but it would, through its investigation and study of the energy requirements and fuel resources and policies of the United States, be in a position to recommend to the President and the Congress, first, what the national fuel and energy needs will be during the next 20 years, and, second, how they can be supplied while protecting our environment.

It is not too late for the Congress to consider this proposal before the end of the present session, and I urge the Interstate and Foreign Commerce Committee to consider scheduling hearings on this legislation as soon as possible.

FOREIGN ASSISTANCE FOR THE 'SEVENTIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 91-385)

The SPEAKER pro tempore (Mr. ALBERT) laid before the House the following message from the President of the United States which was read, and, without objection referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

FOREIGN ASSISTANCE FOR THE 'SEVENTIES

Today, I am proposing a major transformation in our foreign assistance programs.

For more than two decades these programs have been guided by a vision of international responsibilities conditioned by the aftermath of World War II and the emergence of new nations. But the world has been changing dramatically; by the end of the 'Sixties, there was widespread agreement that our programs for foreign assistance had not kept up with these changes and were losing their effectiveness. This sentiment has been reflected in declining foreign aid levels.

The cause of this downward drift is not that the need for aid has diminished; nor is it that our capacity to help other nations has diminished; nor has America lost her humanitarian zeal; nor have we turned inward and abandoned our pursuit of peace and freedom in the world.

The answer is not to stop foreign aid or to slash it further. The answer is to reform our foreign assistance programs and do our share to meet the needs of the 'Seventies.

A searching reexamination has clearly been in order and, as part of the new Administration's review of policy, I was determined to undertake a fresh appraisal. I have now completed that appraisal and in this message I am proposing a set of fundamental and sweeping reforms to overhaul completely our entire foreign assistance operation to make it fit a new foreign policy.

Such a major transformation cannot be accomplished overnight. The scope and complexity of such an undertaking requires a deliberate and thoughtful approach over many months. I look forward to active discussion of these proposals with the Congress before I transmit my new assistance legislation next year.

Reform #1: I propose to create separate organizational arrangements for each component of our assistance effort: security assistance, humanitarian assistance, and development assistance. This is necessary to enable us to fix responsibility more clearly, and to assess the success of each program in achieving its specific objectives. My proposal will overcome the confusion inherent in our present approach which lumps together these separate objectives in composite programs.

Reform #2: To provide effective support for the Nixon Doctrine, I shall propose a freshly conceived International Security Assistance Program. The prime objective of this program will be to help other countries assume the responsibility of their own defense and thus help us reduce our presence abroad.

Reform #3: I proposed that the foundation for our development assistance programs be a new partnership among nations in pursuit of a truly international development effort based upon a strengthened leadership role for multilateral development institutions. To further this objective,

—The U.S. should channel an increasing share of its development assistance through the multilateral institutions as rapidly as practicable.

—Our remaining bilateral assistance should be provided largely within a framework established by the international institutions.

—Depending upon the success of this approach, I expect that we shall eventually be able to channel most of our development assistance through these institutions.

Reform #4: To enable us to provide effective bilateral development assistance in the changed conditions of the 'Seventies, I shall transmit legislation to create two new and independent institutions:

—A U.S. International Development Corporation, to bring vitality and innovation to our bilateral lending activities and enable us to deal with lower income nations on a business-like basis.

—A U.S. International Development Institute to bring the genius of U.S. science and technology to bear on the problems of development, to help build research and training competence in the lower income countries themselves, and to offer cooperation in international efforts dealing with such problems as population and employment.

Their creation will enable us to phase out the Agency for International Devel-

opment and to reduce significantly the number of overseas U.S. Government personnel working on development programs.

Reform #5: To add a new dimension to the international aid effort insuring a more permanent and enduring source of funds for the low income countries, I have recently proposed that all nations enter into a treaty which would permit the utilization of the vast resources of the seabeds to promote economic development.

Reform #6: I propose that we redirect our other policies which bear on development to assure that they reinforce the new approach outlined in this message. Our goal will be to expand and enhance the contribution to development of trade and private investment, and to increase the effectiveness of government programs in promoting the development process. A number of changes are necessary:

—I propose that we move promptly toward initiation of a system of tariff preferences for the exports of manufactured products of the lower income countries in the markets of all the industrialized countries.

—I am ordering the elimination of those tying restrictions on procurement which hinder our investment guarantee program in its support of U.S. private investment in the lower income countries.

—I propose that all donor countries take steps to end the requirement that foreign aid be used to purchase goods and services produced in the nation providing the aid. Complete untying of aid is a step that must be taken in concert with other nations; we have already begun discussions with them toward that end. As an initial step, I have directed that our own aid be immediately untied for procurement in the lower income countries themselves.

THE FOUNDATIONS OF REFORM

These are the most fundamental of the many far-reaching reforms I propose today. To understand the need for them now, and to place them in perspective, it is important to review here the way in which we have reexamined our policies in light of today's requirements.

Two steps were necessary to develop a coherent and constructive U.S. assistance program for the Seventies:

—As a foundation, we needed a foreign policy tailored to the 1970's to provide direction for our various programs. For that, we developed and reported to the Congress in February the New Strategy for Peace.

—Second, to assist me in responding to the Congress and to get the widest possible range of advice on how foreign assistance could be geared to that strategy, I appoint a distinguished group of private U.S. citizens to make a completely independent assessment of what we should be trying to achieve with our foreign aid programs and how we should go about it.

The Task Force on International Development, chaired by Rudolph Peterson, former president of the Bank of America, drew upon the considerable experience of its own members and sought views from Members of the Congress and from every quarter of U.S. society. In early March the Task Force presented its report to me, and shortly thereafter I released it to the public. The Task Force undertook a comprehensive assessment of the conditions affecting our foreign assistance program and proposed new and creative approaches for the years ahead. Its report provides the basis for the proposals which I am making today.

I also have taken into account the valuable insights and suggestions concerning development problems which were contained in the Rockefeller Report on our Western Hemisphere policy. Many of the ideas and measures I am proposing in this message in fact were foreshadowed by a number of policy changes and program innovations which I instituted in our assistance programs in Latin America.

THE PURPOSES OF FOREIGN ASSISTANCE

There are three interrelated purposes that the U.S. should pursue through our foreign assistance program: promoting our national security by supporting the security of other nations; providing humanitarian relief; and furthering the long-run economic and social development of the lower income countries.

The national security objectives of the U.S. cannot be pursued solely through defense of our territory. They require a successful effort by other countries around the world, including a number of lower income countries, to mobilize manpower and resources to defend themselves. They require, in some cases, military bases abroad, to give us the necessary mobility to defend ourselves and to deter aggression. They sometimes require our financial support of friendly countries in exceptional situations.

Moreover, our security assistance programs must be formulated to achieve the objectives of the Nixon Doctrine, which I set forth at Guam last year. That approach calls for any country whose security is threatened to assume the primary responsibility for providing the manpower needed for its own defense. Such reliance on local initiative encourages local assumption of responsibility and thereby serves both the needs of other countries and our own national interest. In addition, the Nixon Doctrine calls for our providing assistance to such countries to help them assume these responsibilities more quickly and more effectively. The new International Security Assistance Program will be devoted largely to these objectives. I shall set forth the details of the proposed program when I transmit the necessary implementing legislation to the Congress next year.

The humanitarian concerns of the American people have traditionally led us to provide assistance to foreign countries for relief from natural disasters, to help with child care and maternal welfare, and to respond to the needs of international refugees and migrants. Our humanitarian assistance programs, limited in size but substantial in human benefits, give meaningful expression to these concerns.

Both security and humanitarian assistance serve our basic national goal: the creation of a peaceful world. This interest is also served, in a fundamental and lasting sense, by the third purpose of our foreign assistance: the building of self-reliant and productive societies in the lower income countries. Because these countries contain two-thirds of the world's population, the direction which the development of their societies takes will profoundly affect the world in which we live.

We must respond to the needs of these countries if our own country and its values are to remain secure. We are, of course, wholly responsible for solutions to our problems at home, and we can contribute only partially to solutions abroad. But foreign aid must be seen for what it is—not a burden, but an opportunity to help others to fulfill their aspirations for justice, dignity, and a better life. No more abroad than at home can peace be achieved and maintained without vigorous efforts to meet the needs of the less fortunate.

The approaches I am outlining today provide a coherent structure for foreign assistance—with a logical framework for separate but interdependent programs. With the cooperation of Congress, we must seek to identify as clearly as possible which of our purposes—security, humanitarianism, or long-term development of the lower income countries—to pursue through particular U.S. programs. This is necessary to enable us to determine how much of our resources we wish to put into each, and to assess the progress of each program toward achieving its objectives.

There is one point, however, that I cannot overemphasize. Each program is a part of the whole, and each must be sustained in order to pursue our national purpose in the world of the Seventies. It is incumbent upon us to support all component elements—or the total structure will be unworkable.

EFFECTIVE DEVELOPMENT ASSISTANCE—THE CHANGED CONDITIONS

The conditions that surround and influence development assistance to lower income countries have dramatically changed since the present programs were established. At that time the United States directly provided the major portion of the world's development assistance. This situation led to a large and ambitious U.S. involvement in the policies and activities of the developing countries and required extensive overseas missions to advise governments and monitor programs. Since then the international assistance environment has changed:

First, the lower income countries have made impressive progress, as highlighted by the Commission on International Development chaired by Lester Pearson, the former Prime Minister of Canada. They have been helped by us and by others, but their achievements have come largely through their own efforts. Many have scored agricultural breakthroughs which have dramatically turned the fear

of famine into the hope of harvest. They have made vast gains in educating their children and improving their standards of health. The magnitude of their achievement is indicated by the fact that the lower income countries taken together exceeded the economic growth targets of the First United Nations Development Decade. These achievements have brought a new confidence and self-reliance to people in communities throughout the world.

With the experience that the lower income countries have gained in mobilizing their resources and setting their own development priorities, they now can stand at the center of the international development process—as they should, since the security and development which is sought is theirs. They clearly want to do so. Any assistance effort that fails to recognize these realities cannot succeed.

Second, other industrialized nations can now afford to provide major assistance to the lower income countries, and most are already doing so in steadily rising amounts.

While the United States remains the largest single contributor to international development, the other industrialized nations combined now more than match our efforts. Cooperation among the industrialized nations is essential to successful support for the aspirations of the lower income countries. New initiatives in such areas as trade liberalization and untying of aid must be carried out together by all such countries.

Third, international development institutions—the World Bank group, the Inter-American Development Bank and other regional development organizations, the United Nations Development Program, and other international agencies—now possess a capability to blend the initiatives of the lower income countries and the responses of the industrialized nations. They have made effective use of the resources which we and others have provided. A truly international donor community is emerging, with accepted rules and procedures for responding to the initiatives of the lower income countries. The international institutions are now in a position to accelerate further a truly international development effort.

Fourth, the progress made by lower income countries has brought them a new capability to sell abroad, to borrow from private sources, and to utilize private investment efficiently. As a result, a fully effective development effort should encompass much more than government assistance programs if it is to make its full potential contribution to the well-being of the people of the developing nations. We have come to value the constructive role that the private sector can play in channeling productive investments that will stimulate growth. We now understand the critical importance of enlightened trade policies that take account of the special needs of the developing countries in providing access for their exports to the industrialized nations.

EFFECTIVE DEVELOPMENT ASSISTANCE—THE PROGRAM FOR REFORM

To meet these changed international conditions, I propose a program for reform in three key areas: to support an expanded role for the international assistance institutions; to reshape our bilateral programs; and to harness all assistance-related policies to improve the effectiveness of our total development effort.

My program for reform is a reaffirmation of the commitment of the United States to support the international development process, and I urge the Congress to join me in fulfilling that commitment. We want to help other countries raise their standards of living. We want to use our aid where it can make a difference. To achieve these goals we will respond positively to sound proposals which effectively support the programs of the lower income countries to develop their material and human resources and institutions to enable their citizens to share more fully in the benefits of worldwide technological and economic advance.

1. EXPANDING THE ROLE OF INTERNATIONAL INSTITUTIONS

International institutions can and should play a major creative role both in the funding of development assistance and in providing a policy framework through which aid is provided.

Such a multilateral approach will engage the entire international community in the development effort, assuring that each country does its share and that the efforts of each become part of a systematic and effective total effort. I have full confidence that these international institutions have the capability to carry out their expanding responsibilities.

—I propose that the United States channel an increasing share of its development assistance through multilateral institutions as rapidly as practicable.

We have already taken the first steps in this direction. The Congress is currently considering my proposals for a $1.8 billion multi-year U.S. contribution to the Inter-American Development Bank and a $100 million contribution over three years to the Asian Development Bank. These two requests together with authorizations for increases in our subscriptions to the World Bank and International Monetary Fund are critical to our new assistance approach.

Moreover, I am pleased to note the recent statement by the World Bank that there is widespread agreement among donor countries to replenish the funds of the International Development Association at an annual rate of $800 million for the next three years, beginning in fiscal year 1972. I shall propose that the Congress, at its next session, authorize the $320 million annual U.S. share which such a replenishment would require.

—In order to promote the eventual development of a truly international system of assistance, I propose that our remaining bilateral development assistance be coordinated wherever feasible with the bilateral assistance of other donor countries, through consortia and consultative groups under the leadership of these international institutions. These institutions and groups like the CIAP in Latin America will provide leadership in the development process and work out programs and performance standards with lower income countries themselves.

Moving in this direction holds the promise of building better relations between borrowing and lending countries by reducing the political frictions that arise from reliance on bilateral contacts in the most sensitive affairs of nation-states. It will enhance the effectiveness of the world development effort by providing for a pooling of resources, knowledge, and expertise for solving development problems which no single country can muster.

2. RESHAPING OUR BILATERAL PROGRAMS

If these worldwide initiatives are to be fully effective, we must also refashion and revitalize our own institutions to assure that they are making their maximum contribution within a truly international development system. This will be neither an easy nor quickly accomplished task; it calls for thorough preparation, and an orderly transition. It is essential to undertake this task if our programs are to reflect the conditions of the 'Seventies.

The administration of bilateral assistance programs is complex and demanding. New institutions are needed so that we can directly focus on our particular objectives more effectively.

U.S. INTERNATIONAL DEVELOPMENT INSTITUTE

—I shall propose establishment of a U.S. International Development Institute, which will bring U.S. science and technology to bear on the problems of development.

The Institute will fill a major gap in the international development network. It will match our vast talents in science and technology with institutions and problems abroad. Research has created the basis for the Green Revolution—the major breakthrough in agricultural production—but continued progress in the 1970's will require the lower income countries to deal with more, and more complex, problems. The Institute will concentrate on selected areas and focus U.S. technology on critical problems. This requires flexibility, imagination and a minimum of red tape. If we can provide this Institute with the operational flexibility enjoyed by our private foundations, we can make a major contribution to the lower income countries at modest expense.

An Institute, so organized, could

—Concentrate U.S. scientific and technological talent on the problems of development.

—Help to develop research competence in the lower income countries themselves.

—Help develop institutional competence of governments to plan and manage their own development programs.

—Support expanded research programs in population.

—Help finance the programs of U.S.-sponsored schools, hospitals and other institutions abroad.
—Carry out a cooperative program of technical exchange and reimbursable technical services with those developing countries that do not require financial assistance.
—Cooperate in social development and training programs.
—Administer our technical assistance programs.
—Permit greater reliance on private organizations and researchers.

Given the long-term nature of the research operation and the need to attract top people on a career basis, the Institute should be established as a permanent Federal agency. To provide the necessary financial continuity, I propose that Congress provide it with a multi-year appropriation authorization.

U.S. INTERNATIONAL DEVELOPMENT CORPORATION

I shall propose establishment of a U.S. International Development Corporation to administer our bilateral lending program. It will enable us to deal with the developing nations on a mature and businesslike basis.

This Development Corporation will examine projects and programs in terms of their effectiveness in contributing to the international development process. It will rely strongly on the international institutions to provide the framework in which to consider individual loans and will participate in the growing number of international consortia and consultative groups which channel assistance to individual lower income countries. It should have financial stability through a multi-year appropriation authorization and authority to provide loans with differing maturities and differing interest rates, tailored to the requirements of individual borrowers. The Corporation would also have limited authority to provide grant financed technical assistance for projects closely related to its lending operations.

Both the Institute and the Corporation will be subject to normal executive and legislative review, relating their performance directly to their objectives.

Both these new institutions involve a fundamental change from our existing programs. As I have emphasized, the detailed plans and the complete transition will take time. In the interim, I am directing the administrators of our present development programs to take steps to conform these programs, as much as possible, to the new concepts and approaches I have outlined. For example, our program planning for consortia will be based more on analysis and general guidance developed in country studies prepared by the World Bank and other international institutions. Greater utilization of international institutions will permit us to reduce the number of government personnel attached to our assistance programs particularly overseas and make major changes in our present method of operation.

OVERSEAS PRIVATE INVESTMENT CORPORATION

—I am submitting to the Senate my nominations for the members of the Board of the Overseas Private Investment Corporation, which I proposed a year ago to promote the role of the private sector in development and which the Congress approved.

I expect this institution to be an important component of our new bilateral assistance program. The most important efforts of this new agency will be operation of the investment insurance and guaranty program and a strengthened program for assisting U.S. firms to undertake constructive investment in developing countries.

INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

—A few weeks ago I submitted to the Senate my nominations for the members of the Board of Directors of the Inter-American Social Development Institute, which was authorized by the Congress in the Foreign Assistance Act of 1969.

This Institute will provide grant support for innovative social development programs in Latin America undertaken primarily by private non-profit organizations, and will be aimed at bringing the dynamism of U.S. and Latin American private groups to bear on development problems and at broadening the participation of individuals in the development process.

The keynote of the new approach to our bilateral programs will be effectiveness: We will ask whether a program or individual loan will work before we decide to pursue it—and we will expect the international institutions through which we channel funds to do so as well. We will concentrate our activities in sectors in which we can make a significant contribution and in areas where long-term development is of special interest to the United States.

This Administration has been undertaking for some time a full review of all of our foreign economic policies. Those policies, including our new foreign aid policy and programs, must be closely related and mutually supporting. Therefore, I intend shortly to establish a new mechanism which will plan and coordinate all of our foreign economic policies, including our various foreign assistance programs, to assure that they are all effectively related.

3. PROMOTING EFFECTIVE DEVELOPMENT THROUGH IMPROVED ECONOMIC POLICIES

In addition to a new emphasis on the role of international institutions and a new shape to our bilateral programs, I propose initiatives that will enhance the public and private sector contribution to the development process.

—To open further the benefits of trade to the lower income countries, I have proposed that the international community initiate a system of tariff preferences for the exports of manufactured and selected primary products of the lower income countries in the markets of all of the industrialized countries.

The lower income countries must expand their exports to be able to afford the imports needed to promote their development efforts, and to lessen their need for concessional foreign assistance.

Market growth for most of the primary commodities which have traditionally been their major sources of export earnings is insufficient to enable them to meet these needs. I will submit legislation to the Congress recommending that we eliminate duties on a wide range of manufactured products purchased from the lower income countries. We will move ahead with this approach as soon as we achieve agreement with the other industrialized countries to join us with comparable efforts.

—I propose steps to expand the constructive role of private investment in the development process.

In order to eliminate the present tying restrictions on procurement which hinder our investment guarantee program, I am now directing that coverage under the extended risk guarantee program be extended to funds used in purchasing goods and services abroad. This will enhance our support of U.S. private investment in the lower income countries. In addition, we support early inauguration of an International Investment Insurance Agency, under the auspices of the World Bank, to provide multilateral—and thereby more effective—guarantees against expropriations and other political risks for foreign investments. We also support an increase in the scope of operations and resources of the International Finance Corporation, to further promote the role of the private sector—particularly within the lower income countries themselves—in the international development process.

—I propose that all donor countries end the requirement that foreign aid be used to purchase goods and services produced in the nation providing the aid.

Because recipients are not free to choose among competing nations, the value of the aid they receive is reduced significantly. These strings to our aid lower its purchasing power, and weaken our own objectives of promoting development. Aid with such strings can create needless political friction.

Complete untying of aid is a step that must be taken in concert with other nations and we have begun talks to that end with the other members of the Development Assistance Committee of the Organization for Economic Cooperation and Development. In the expectation that negotiations will soon be completed successfully, I have decided to permit procurement now in the lower income countries under the U.S. bilateral lending program—an expansion of the initial step I took with our Latin American neighbors. In addition to improving the quality of our assistance, this should expand trade among the lower income countries, an important objective in its own right.

—I propose that the United States place strong emphasis on what the Peterson Task Force called "the special problem of population."

The initiative in this area rests with each individual country, and ultimately with each family. But the time has come for the international community to come to grips with the world population problem with a sense of urgency. I am gratified at the progress being made by the

new United Nations Fund for Population Activities and propose that it undertake a study of world needs and possible steps to deal with them. In order to cooperate fully in support of this international effort, the proposed U.S. International Development Institute should focus the energy and expertise of this country on new and more effective measures for dealing with the problem of population.

—I also believe that the United States should work with others to deal effectively with the debt service problem.

The successful growth of the past has been financed in part through external borrowings, from private as well as government sources which the borrowers are obligated to repay. Furthermore, a portion of their borrowed resources have gone to build roads, schools and hospitals which are essential requirements of a developing nation but which do not directly generate foreign exchange. The debt incurred has heavily mortgaged the future export earnings of a number of lower income countries, restricting their ability to pay for further development.

This problem calls for responsibility on the part of the lower income countries, cooperation on the part of the lenders, and leadership by the international institutions which must take responsibility for analyzing debt problems and working closely with the creditors in arranging and carrying through measures to meet them. The United States will play its role in such a cooperative effort.

THE FUNDING OF DEVELOPMENT ASSISTANCE

International development is a long-term process. Our institutions—like the multilateral lending institutions—should have an assured source of long-term funding. Foreign assistance involves the activities of many nations and the sustained support of many programs. Sudden and drastic disruptions in the flow of aid are harmful both to our long-term development goals and to the effective administration of our programs.

In the past this country has shown its willingness and determination to provide its share. I confirm that determination and ask the Congress and the American people to assume those responsibilities which flow from our commitment to support the development process.

I agree with the conclusion of the Peterson Task Force that the downward trend of U.S. contributions to the development process should be reversed. I also agree with the Peterson Report that the level of foreign assistance "is only one side of the coin. The other side is a convincing determination that these resources can and will be used effectively."

A determination of the appropriate level of U.S. assistance in any one year will depend on a continuing assessment of the needs and performance of individual developing countries, as well as our own funding ability. It must also be influenced by a further definition of the proposals which I am outlining in this message, the responses of other donors and the performance of the international institutions.

As a long-run contribution to the funding of development, the United States will seek the utilization of revenues derived from the economic resources of the seabed for development assistance to lower income countries. I have recently proposed that all nations enter into a treaty to establish an international regime for the exploitation of these vast resources, and that royalties derived therefrom be utilized principally for providing economic assistance to developing countries participating in the treaty.

Foreign assistance has not been the specific interest of one party or the particular concern of a single Administration. Each President, since the end of World War II, has recognized the great challenges and opportunities in participating with other nations to build a better world from which we all can benefit. Members of both political parties in the Congress and individuals throughout the nation have provided their support.

The U.S. role in international development assistance reflects the vision we have of ourselves as a society and our hope for a peaceful world. Our interest in long-term development must be viewed in the context of its contribution to our own security. Economic development will not by itself guarantee the political stability which all countries seek, certainly not in the short run, but political stability is unlikely to occur without sound economic development.

The reforms that I propose today would turn our assistance programs into a far more successful investment in the future of mankind—an investment made with the combination of realism and idealism that marks the character of the American people. It will enable us to enter the 'Seventies with programs that can cope with the realities of the present and are flexible enough to respond to the needs of tomorrow. I ask the Congress and the American people to join me in making this investment.

RICHARD NIXON.

THE WHITE HOUSE, *September 15, 1970.*

FOREIGN ASSISTANCE FOR THE SEVENTIES

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

Mr. GERALD R. FORD. Mr. Speaker, the President has called for substantial changes in the foreign assistance program. The new focus is to be on an increasing role for private enterprise in helping developing nations; on enlisting the peoples of these nations to help improve their own lives; and on working within the framework of multilateral organizations wherever possible.

For instance, the new framework for our development assistance would include a U.S. International Development Corporation, responsible for making loans in selected countries and for related technical assistance activities. Where possible, our loans would support broad programs worked out by the developing countries and appropriate international financial institutions.

The President has also called for a U.S. International Development Institute to apply science and technology to the process of development. The Institute would work largely through private organizations and would rely on highly skilled scientific and professional personnel.

The United States must be able to respond flexibly and effectively to changing requirements in the developing world. The President's proposals will make possible that kind of response.

Mr. ROBISON. Mr. Speaker, in his state of the Union message, as delivered to this Congress and to the Nation on January 22 of this year by the President, Mr. Nixon sounded again his theme that "if ours is not to be an age of revolution, it must be an age of reform," going on to propose that, as we entered the seventies, we should enter also a great age of reform of the institutions of American government.

Subsequently, on February 18, the President sent to Congress his historic "State of the World Message," entitled, "U.S. Foreign Policy for the 1970's—A New Strategy for Peace." This wide-ranging document was a statement of the new approach the President intended to make in foreign policy, generally—an approach designed to match what Mr. Nixon called "a new era of international relations."

In this latter message, the President declared:

America cannot live in isolation if it expects to live in peace.

Adding that—

We have no intention of withdrawing from the world . . . the only issue before us (being) how we can be most effective in meeting our responsibilities, protecting our interests, and thereby building peace.

In any such long-range effort it was clearly essential that we, as a Nation and a people, should address ourselves to the need for reform of our so-called foreign-assistance programs—an overall effort which, while not perhaps to be embraced under that earlier Presidential category of "institutions of American government," is nevertheless one of the building-blocks out of which a durable peace in a rapidly changing world will have to be constructed.

Today, then, we now have Mr. Nixon's ideas in this regard—and most welcome ideas they are, indeed.

In an era of declining foreign-aid expenditure levels—which fact expresses not only congressional and popular disenchantment with the foreign-aid programs of the past but quite likely, as well, a swelling national weariness with what many of our citizens, out of their unhappiness over Vietnam, have come to view as our tendency in recent years towards global adventurism—it is essential that we avoid carrying too far our understandable desire to turn somewhat inwards. For, whether we like it or not, we have a profound national interest in the social and economic development of the lower-income nations of the world. Our needs at home are, to be sure, most large, but our new awareness of them should not be permitted to blind us to the development needs of the world; this because, as the President notes:

No more abroad than at home can peace be achieved and maintained without vigorous efforts to *meet the needs of the less fortunate.*

The problem faced by the President in this regard has been a difficult one. Essentially, it has been a problem of finding ways and means to make our foreign assistance programs more effective at a time when, for a variety of factors—not the least of which is the current public attitude toward foreign aid in general, as that attitude is reflected here in Congress—there will doubtless be no appreciable increases in overall aid expenditures in the years immediately ahead.

In submitting his recommendations in this regard, the President has drawn heavily on the report of the Peterson Task Force on International Development, as well as on Gov. Nelson Rockefeller's report concerning our special policy problems in our own Western Hemisphere. Mr. Nixon's recommendations are simple and direct. First, he proposes that increasing amounts of our development assistance be channeled through the World Bank and other such international and regional institutions. Second, he recommends that we continue a significant program of bilateral development assistance—assistance administered by the United States, itself—but targeted now on those underdeveloped nations in which we have a special interest and which also show an ability and readiness to respond positively to the need to develop their material and human resources; in other words, to use our aid not indiscriminately as in the past but, from now on, only where it can make a difference. This involves, I know, a principle that has been stated in the past but seldom adhered to by recent Chief Executives. However, that principle is so much on all fours with the "Nixon Doctrine's" emphasis on local initiative and local assumption of responsibility—on the concept that peace requires partnership—that we must believe this is one President who means what he says in this respect.

The first such recommendation foreshadows the end of our once overlarge and overambitious involvement in the policies and activities of the growing number of developing nations, as well as the farflung overseas missions once thought necessary to administer and monitor that unique, but too often failing, effort. It foreshadows the day, not far off, when the United States will take its proper place in the emerging international donor community—as Mr. Nixon calls it—which has now the capability of better blending the initiatives of the lower income countries and the responses of the industrialized nations than we could ever hope to accomplish on our own.

The second such recommendation similarly foreshadows the day, also not far off, when those nations that will receive the benefit of our foreign aid will stand at the center of the international development effort, establishing their own priorities and receiving our assistance in relation to the efforts they are making in their own behalf. If Congress reacts favorably to the President's forthcoming legislative recommendations in this same regard, it also foreshadows a new institutional framework to replace the existing Agency for International Development, and a new emphasis on private initiative, private skills, and private resources in the developing nations, concentrating on their long-term needs and not on short-term political favors which, we should have long ago learned, cannot be bought with such assistance.

This new institutional framework, with congressional cooperation will be centered around a U.S. International Development Institute—to bring our scientific and technical capabilities to bear on the special problems of development—and a U.S. International Development Corporation responsible for making capital and related technical-assistance loans in selected countries on what the President assures us will be "a mature and businesslike basis." In order to help assure that latter objective, both of these newly proposed organizations will report directly to the President, leaving under State Department auspices those separate programs of "humanitarian assistance"—relief from natural disasters, refugee programs, and the like—and, in manner yet to be determined, under other auspices that third element of foreign assistance—collective security or "security assistance," as the President terms it—thus separating out the three major aims of our newly shaped foreign assistance program in such a way as to help fix responsibility more precisely and to clarify accountability for their conduct.

Mr. Speaker, though I shall, of course, wish to examine further the specifics of the forthcoming Presidential legislative proposals, the basics of the President's message, today, have my immediate and enthusiastic approval.

Taken together, they constitute the beginnings of true reform—giving proof where needed of the fact that declining foreign aid expenditure levels is not evidence that the need for such aid is diminished, or that our capacity to help other nations has diminished, or that America has lost, as Mr. Nixon put it, "her humanitarian zeal," nor, again in his words, that "we have turned inward and abandoned our pursuit of peace and freedom in the world."

Taken together, such proposals—including specifically, and it needed to be emphasized, Mr. Nixon's suggestion that the new International Development Institute should focus, with a sense of urgency, the energy and expertise of this country on the world's population problem—can help make our foreign-assistance programs the kind of investment in a better world, from which we can all benefit, that they have long needed to be.

GENERAL LEAVE TO EXTEND

Mr. GERALD R. FORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the President's message on foreign assistance for the seventies.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the genleman from Michigan?

There was no objecion.

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. ALBERT). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

DR. ANTHONY S. MASTRIAN

The Clerk called the bill (H.R. 15760) for the relief of Dr. Anthony S. Mastrian.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be put over without prejudice.

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

There was no objection.

ATKINSON, HASERICK & CO., INC.

The Clerk called the bill (H.R. 10534) for the relief of Atkinson, Haserick & Co., Inc.

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

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

There was no objection.

CLAUDE G. HANSEN

The Clerk called the bill (H.R. 13807) for the relief of Claude G. Hansen.

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

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

There was no objection.

JOHN R. GOSNELL

The Clerk called the bill (H.R. 13469) for the relief of John R. Gosnell.

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

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

There was no objection.

DAVID L. KENNISON

The Clerk called the bill (H.R. 15272) for the relief of David L. Kennison.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be put over without prejudice.

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

There was no objection.

GEORGE F. MILLS

The Clerk called the bill (H.R. 15415) for the relief of George F. Mills.

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

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

There was no objection.

REFERENCE OF H.R. 17968 TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS

The Clerk called the House Resolution (H. Res. 108) referring H.R. 1390 to the Chief Commissioner of the Court of Claims.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this resolution be passed over without prejudice.

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

There was no objection.

THOMAS J. BECK

The Clerk called the bill (H.R. 4982) for the relief of Thomas J. Beck.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be put over without prejudice.

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

There was no objection.

OK YON (MRS. CHARLES G.) KIRSCH

The Clerk called the bill (H.R. 4670) for the relief of Ok Yon (Mrs. Charles G.) Kirsch.

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

H.R. 4670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Ok Yon (Mrs. Charles G.) Kirsch shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That, in the administration of the Immigration and Nationality Act, Ok Yon (Mrs. Charles G.) Kirsch shall be held and considered to be an immediate relative as defined in section 201(b) of that Act and the provisions of section 204 of the said Act shall not be applicable in this case."

The committee amendment was agreed to.

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

MAUREEN O'LEARY PIMPARE

The Clerk called the bill (H.R. 12962) for the relief of Maureen O'Leary Pimpare.

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

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

There was no objection.

MARIA DE CONCEICAO BOTELHO PEREIRA

The Clerk called the bill (H.R. 12990) for the relief of Maria de Conceicao Botelho Pereira.

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

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

There was no objection.

VERNON LOUIS HOBERG

The Clerk called the bill (S. 1087) for the relief of Vernon Louis Hoberg.

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

S. 1087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a) (4) of the Immigration and Nationality Act, Vernon Louis Hoberg may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That, if the said Vernon Louis Hoberg is not entitled to medical care under the Dependents' Medical Care Act (70 Stat. 250), a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act: *Provided further,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

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

MARGARITA ANNE MARIE BADEN (NGUYEN TAN NGA)

The Clerk called the bill (S. 2976) for the relief of Margarita Anne Marie Baden (Nguyen Tan Nga).

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

S. 2976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Margarita Anne Marie Baden (Nguyen Tan Nga) may be classified as a child within the meaning of section 101 (b) (1) (F) of such Act, upon the filing of a petition in her behalf of Barbara Baden, a citizen of the United States, pursuant to section 204 of such Act. No natural brothers or sisters of the said Margarita Anne Marie Baden (Nguyen Tan Nga) shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

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

DRAGO MIKLAUSIC

The Clerk called the bill (H.R. 1508) for the relief of Drago Miklausic.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be put over without prejudice.

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

There was no objeciton.

MATYAS HUNYADI

The Clerk called the bill (H.R. 3436) for the relief of Matyas Hunyadi.

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

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

There was no objection.

PROVIDING FOR THE CONVEYANCE OF CERTAIN PROPERTY OF THE UNITED STATES LOCATED IN LAWRENCE COUNTY, S. DAK., TO JOHN AND RUTH RACHETTO

The Clerk called the bill (H.R. 14421) to provide for the conveyance of certain property of the United States located in Lawrence County, S. Dak., to John and Ruth Rachetto.

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

H.R. 14421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to John and Ruth Rachetto of Deadwood, South Dakota, all right, title, and interest of the United States in and to approximately 68.34 acres of land, together with all improvements thereon, located in Lawrence County, South Dakota, and more particularly described as lot 7, the north half of lot 8, and lot 2 in section 24, township 5 north, range 3 east, Black Hills meridian, containing approximately 73.14 acres, less lot 37 of lot 7, containing approximately 4.8 more or less. Such conveyance by the Secretary shall take place upon payment by or on behalf of John and Ruth Rachetto within two years from the date of enactment of this Act of the fair market value of the property being conveyed.

With the following committee amendments:

Page 1, line 6, strike out "68.34" and insert "79.79".

Page 1, lines 8 and 9, strike out "the north half of".

Page 1, line 10, after "Black Hills" strike out the remainder of the text ending on page 2, line 5, and insert in lieu thereof the following: "meridian. Such conveyance shall be made by the Secretary following application by John and Ruth Rachetto and payment, within one year from notification of the amount thereof, of the fair market value

of the property conveyed plus costs of appraisal and survey, if any, and the administrative costs of making the conveyance, all as determined by the Secretary. Moneys paid to the Secretary for administrative costs, appraisal, and surveys shall be deposited in the appropriation account then current for the agency which rendered the service. Moneys paid for the land shall be deposited in the general fund of the Treasury as miscellaneous receipts."

The committee amendments were agreed to.

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

CLINTON M. HOOSE

The Clerk called the bill (H.R. 4665) for the relief of Clinton M. Hoose.

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

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

There was no objection.

A. HUGHLETT MASON

The Clerk called the bill (H.R. 5017) for the relief of A. Hughlett Mason.

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

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

There was no objection.

ROGER STANLEY, AND THE SUCCESSOR PARTNERSHIP, ROGER STANLEY AND HAL IRWIN, DOING BUSINESS AS THE ROGER STANLEY ORCHESTRA

The Clerk called the bill (H.R. 5943) for the relief of Roger Stanley, and the successor partnership, Roger Stanley and Hal Irwin, doing business as the Roger Stanley Orchestra.

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

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

There was no objection.

HERSHEL SMITH, PUBLISHER OF THE LINDSAY NEWS, OF LINDSAY, OKLA.

The Clerk called the bill (H.R. 6100) for the relief of Hershel Smith, publisher of the Lindsay News, of Lindsay, Okla.

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

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

There was no objection.

CHARLES ZONARS

The Clerk called the bill (H.R. 7955) for the relief of Charles Zonars.

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

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

There was no objection.

CENTRAL GULF STEAMSHIP CORP.

The Clerk called the bill (H.R. 12958) for the relief of Central Gulf Steamship Corp.

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

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

There was no objection.

DAVID Z. GLASSMAN

The Clerk called the bill (H.R. 13805) for the relief of David Z. Glassman.

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

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

There was no objection.

JACK A. DUGGINS

The Clerk called the bill (H.R. 14271) for the relief of Jack A. Duggins.

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

H.R. 14271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay out of any money in the Treasury not otherwise appropriated the sum of $3,341.80 to Jack A. Duggins of San Bernardino, California, in full settlement of his claims against the United States for losses and expenses he suffered in disposing of property and arranging his personal affairs in order to depart for an assignment in Hawaii as an employee of the Air Force, which assignment was canceled just prior to the time he was to depart. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 5, strike "$3,341.80" and insert "$1,266.59".

The committee amendment was agreed to.

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

MARCOS ROJOS RODRIGUEZ

The Clerk called the bill (S. 1187) for the relief of Marcos Rojos Rodriguez.

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

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

There was no objection.

ARLINE LOADER AND MAURICE LOADER

The Clerk called the bill (S. 2514) for the relief of Arline Loader and Maurice Loader.

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

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

There was no objection.

KATHRYN TALBOT

The Clerk called the bill (S. 2661) for the relief of Kathryn Talbot.

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

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

There was no objection.

ARTHUR JEROME OLINGER

The Clerk called the bill (S. 703) for the relief of Arthur Jerome Olinger, a minor, by his next friend, his father, George Henry Olinger, and George Henry Olinger, individually.

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

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

There was no objection.

Mr. DAVIS of Georgia. Mr. Speaker, I ask unanimous consent that further call of the Private Calendar be dispensed with.

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

There was no objection.

VICTOR L. ASHLEY—SENATE AMENDMENT

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11060) for the relief of Victor L. Ashley, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 3, after "Ashley" insert "or, in the event of his death, to his estate,".

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

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

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

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

Mr. EDMONDSON. 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. 296]

Abbitt	Eckhardt	Meskill
Adams	Edwards, Calif.	Mikva
Anderson, Tenn.	Edwards, La.	Morse
	Fallon	Murphy, N.Y.
Ashbrook	Feighan	O'Konski
Baring	Flynt	Ottinger
Beall, Md.	Ford, William D.	Pelly
Bell, Calif.	Foreman	Philbin
Berry	Friedel	Powell
Blanton	Fulton, Tenn.	Price, Tex.
Blatnik	Gallagher	Purcell
Boland	Garmatz	Reid, N.Y.
Brock	Giaimo	Rivers
Brooks	Gilbert	Roe
Brown, Calif.	Gray	Rogers, Colo.
Broyhill, Va.	Hansen, Wash.	Rosenthal
Buchanan	Harrington	Roudebush
Burton, Utah	Hastings	Roybal
Bush	Hathaway	St Germain
Button	Hébert	Sandman
Cabell	Hicks	Satterfield
Casey	Hogan	Scherle
Celler	Holifield	Scheuer
Chappell	Horton	Schneebeli
Chisholm	Jones, Tenn.	Sebelius
Clark	Karth	Staggers
Clay	Kastenmeier	Stokes
Collins	Kleppe	Stuckey
Conte	Landgrebe	Talcott
Conyers	Landrum	Teague, Calif.
Coughlin	Lloyd	Teague, Tex.
Cowger	Lujan	Thompson, N.J.
Daddario	Lukens	Tiernan
Dawson	McCarthy	Tunney
de la Garza	McCulloch	Ullman
Diggs	Macdonald, Mass.	Watson
Dingell	MacGregor	Weicker
Donohue	Meeds	Widnall
Dowdy	Mikva	Wold
Downing	Morse	

The SPEAKER pro tempore (Mr. EDMONDSON). On this rollcall 313 Members have answered to their names, a quorum.

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

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. SISK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Commitee of the Whole House on the State of the Union for the further consideration of the bill H.R. 17654, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, July 29, 1970, the Clerk had read through section 119 ending on page 40, line 22, of the bill.

AMENDMENT OFFERED BY MR. SISK

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

The Clerk read as follows:

Amendment offered by Mr. SISK: On page 40, immediately below line 22, insert the following:

"(3) Clause 3 of rule XXVIII of the Rules of the House of Representatives is amended—

"(1) by striking out ', but their report shall not include matter not committed to the conference commitee by either House. '; and

"(2) by inserting in lieu thereof the following: '; but the introduction of any language in that substitute presenting a specific additional topic, question, issue, or proposition not committed to the conference commitee by either House shall not constitute a germane modification of the matter in disagreement. Moreover, their report shall not include matter not committed to the conference committee by either House, nor shall their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or proposition as so committed to the conference committee.'."

Mr. SISK. Mr. Chairman, before I discuss briefly the amendment which has been offered I should like to make a few very brief remarks with reference to the bill in general and what the time situation appears to be.

As we were notified prior to the recess, today, Tuesday, and Wednesday and Thursday of this week were to be devoted solely to the consideration of the reorganization bill. It was to have priority for this week.

It is the considered judgment of this Member that if we are to pass a bill on legislative reorganization this year it would seem to be almost essential that work be completed by Thursday night. I am not here trying to set any hard and fast rules, but I merely wish to call to the attention of all Members, who are certainly just as much concerned, I am sure, as I am, that if we are to do that we are going to have to expeditiously consider such amendments as will be offered from time to time.

It would be my hope that Members would be willing voluntarily to limit themselves to a reasonable period of time. As you know, we have not sought to cut off debate. It would be my hope we would not do so in the future. I am simply attempting to call your attention to the urgency of the situation. Today is September 15 and it would seem to me unless we can complete action and finally vote on this bill this week the chances of ultimate passage are not too good.

Mr. Chairman, I would like to conclude these brief remarks by saying that we have been in contact with a number of Members of the other body, Members who are interested and Members who are concerned and Members who have, through staff work, kept up to the minute with what we are doing. There are hopeful indications that the other body will expeditiously consider this if, as I say, we could pass it in a timely fashion.

I have as late as this morning discussed the situation with certain interested Members of the other body and the time period that we are confronted with. As I say, I am hopeful that if we can expeditiously complete our work, there is a possibility—and I think it is a good possibility—that we could see the final passage of a legislative reorganization bill this year.

Now, Mr. Chairman, I would briefly like to discuss the amendment which has been offered here.

This amendment arises out of some recent events that developed in connection with the actions by conferees. Of course, as we know, conferences are held as executive sessions and not open to the public. We have had a recent demonstration of new material being added to a bill, material that was neither considered by this House nor by the other body in committee or in debate on the floor of either body, having been placed in the legislation and in fact having become a part of the recently passed highway safety bill. I am sure any of you who have run into some of the problems that I have run into recently are somewhat concerned over this kind of a development.

I might say that the gentleman from Illinois (Mr. ERLENBORN) also called this matter to the attention of the committee, and he, as recently as, I believe, 1969, on a point of order concerning the very question that we seek to get at here, found his point of order was overruled even though seemingly the present language of article 3, rule XXVIII, would have precluded the injection of new material. Precedents going back to 1907, and even since, permitted the overruling of a point of order after it has been made in connection with new material having been injected in a conference at that time. So the language which you have here heard read simply proposes to make it impossible to bring in new material, material that has not been considered in one or the other body's consideration of the matter.

I would briefly like to read through the amendment again, because there are two or three points that I would like to emphasize in it. I am only using that part of the new language which pertains here: "but the introduction of any language in that substitute presenting a specific additional topic, question, issue, or proposition"——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SISK was allowed to proceed for 5 additional minutes.)

Mr. SISK. Mr. Chairman, I apologize for the request for additional time and I would hope that I would not hereafter have to seek additional time. But in order to clarify and make some legislative history, if this amendment is adopted, it is necessary to discuss it a little bit further, and I will reread the language that I started to read: ", but the introduction of any language in that substitute presenting a specific additional topic, question, issue, or proposition, not committed to the conference committee by either House shall not con-

stitute a germane modification of the matter in disagreement."

Now, that particular language goes specifically to the issue on the recently passed Airway Safety Fund Act and I think that language would have precluded what was written in there in the way of what amounted almost to a secret provision having to do with penalties to try to avoid permitting the public knowing that they were paying an additional 3-percent tax upon their air travel.

Now, the second part of the amendment goes even further in an attempt to make certain that the proceedings of a conference committee which is held in executive session cannot go beyond the scope of what the committees of the two bodies in their floor debate held in the initial handling of the legislation, and it reads thus:

> Moreover, their report shall not include matter not committed to the conference committee by either House, nor shall their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or proposition as so committed to the conference committee.

Let me quickly cite a possible illustration of what we are talking about here. For example, the House passes a piece of legislation authorizing $1 million; the other body after having considered the legislation passes a bill authorizing $5 million; then the conference committee could not come back and report $10 million or, going the other way, report $500,000. The point is that it should stay within the scope of what the two bodies have done initially. And this also could apply in other cases other than in dollar amounts, but must stay within the scope of the legislation at the time that it was considered in the two Houses.

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

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

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding and I want to compliment the gentleman in the well and the other gentleman from California (Mr. SMITH) for taking the initiative in offering this amendment which I think will remedy the problem that we have been faced with in reports coming from conference committees.

Let me ask the gentleman in the well one question.

In the experience that I recently had with the Coal Mine Health and Safety Bill, I raised several points of order against the conference report. Let me give one example, and I would ask the opinion of the gentleman as to the construction and effectiveness of the amendment that the gentleman is offering.

In the bill on coal mine health and safety the House bill provided compensation for only complicated pneumoconiosis.

The bill of the other body likewise provided compensation only for complicated pneumoconiosis. The report of the conference committee extended the compensation benefits to all pneumoconiosis including simple as well as complicated pneumoconiosis. This was one of the points of order that I made against the conference report. In the opinion of the gentleman, if this language that the gentleman is offering had been part of the rules at that time, would my point of order have been valid and sustained?

Mr. SISK. In my opinion if I understand the language we are offering, your points of order would have been sustained.

Mr. ERLENBORN. I thank the gentleman.

Mr. SISK. That is the very kind of situation we seek to prevent.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman.

Mr. VAN DEERLIN. Mr. Chairman, I rise in support of the Sisk amendment. Congress has been made to look very foolish by what happened in conference on the Aviation Facilities Expansion Act. The conferees on that important bill not only wrote new regulations into the law, but posted stiff financial penalties for violation of their new regulations.

I first directed the attention of colleagues to this prize bit of effrontery on July 1 of this year.

At that time I not only pointed out the absurdity of the regulations, but expressed doubt as to their constitutionality. That doubt was shared by a number of individuals, particularly among the ranks of travel agents and ticket sellers. One of them, David Peters, president of Timely Travel Inc., of Los Angeles, decided to press for a court test of their legality.

To this end, he announced publicly that he would defy the regulations and would list separately the amount of the tax on every domestic airline ticket sold by his agency. Mr. Peters sent to me a copy of a ticket he wrote in a manner which defied the regulations, and asked me to forward it to the appropriate agency. I forwarded the copy with a covering letter to the Commissioner of the Internal Revenue Service.

It is interesting to note that, whether by reason of the press of more important business or otherwise, the Internal Revenue Service has so far failed to take any action against Mr. Peters or the Timely Travel Agency.

One may experience either relief or regret, depending on one's point of view, at learning that Mr. Peters has discontinued his deliberate defiance of regulations. He did so, however, not because of the pressure of Federal agencies or because of his belief that his actions were unjustified. Rather, he was constrained to do so by the Air Transport Association, which threatened him with loss of his sales agency agreement if he persisted in his efforts to bring the matter into the courts.

On July 1 of this year, the day on which I called to the attention of my colleagues the lack of wisdom of the regulations that had been adopted, I introduced legislation to bring about a revision of the regulations as they applied to this particular matter.

It is clearly not feasible, however, and if it were it is neither sensible nor practical to attempt to correct by additional legislation undesirable actions taken in conference without approval of both Chambers. The Sisk amendment to H.R. 17654 would prevent the recurrence of such travesties upon the legislative process. It is for this reason that I strongly support the amendment.

For those who are interested in the details of the actions of the Timely Travel Agency and its attempts to bring about a court test of the regulations affecting ticket sales, I include copies of pertinent correspondence:

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, D.C., August 20, 1970.

Mr. DAVID PETERS,
President, Timely Travel, Inc.,
Beverly Hills, Calif.

DEAR MR. PETERS: The August 18, 1970 issue of Travel Weekly, Page 1, reports "David Peters, President of Timely Travel, has begun to list the tax on every domestic airline ticket sold by his agency in defiance of the law that bars separating the increased domestic air tax from the ticket price".

You are advised that if the above quote from Travel Weekly is correct, Timely Travel is in violation of the Airports and Airways Bill passed by the Congress of the United States affecting all air travel within or from the United States on or after July 1, 1970. With respect to domestic tickets, including MCO's and XO's for air transportation, all of which are taxable at an 8% rate, the bill prohibits a carrier and/or its authorized agents from listing the fare and tax separately on the flight and passenger coupons. For each violation of this requirement, Congress has imposed a possible maximum $100.00 penalty.

A violation of the specific matter under discussion, if in fact it has occurred, would also appear to constitute a breach of Paragraphs 13 and 17 of the Sales Agency Agreement, in which event formal enforcement action may be required.

Accordingly, you are requested to immediately stop any such practice that may be in effect and immediately advise what action has been taken to correct this matter.

Very truly yours,
FRANKLIN OELSCHLAGER,
Director, Office of Enforcement.

AUGUST 26, 1970.

Re travel weekly August 18, re hidden tax.

Mr. FRANKLIN OELSCHLAGER,
Director, Office of Enforcement,
Air Transport Association of America,
Washington, D.C.

DEAR MR. OELSCHLAGER: I have received your communication of August 20 relative to subject matter.

As per your request, we have stopped any practice of separating the tax and the fare and will continue to abide by the law, which was passed by Congress, even though I feel that this law is unconstitutional and deceitful.

We wish to assure you, Mr. Oelschlager, that in no way did we intend to deliberately violate any of the rules and regulations in the Sales Agency Agreement, but I felt as a businessman, a taxpayer, and a citizen, I had a right to speak out. I feel that this now has been done and we have been heard from, and feel assured that our Congressmen will have this new tax law repealed.

I sincerely hope that this will satisfy your request, and I would appreciate it if you would please acknowledge same.

Very truly yours,
DAVID PETERS,
President.

TIMELY TRAVEL, INC.,
Beverly Hills, Calif., August 28, 1970.

Hon. LIONEL VAN DEERLIN,
House of Representatives,
Cannon Building,
Washington, D.C.

MY DEAR SIR: I received a call from the Press-Telegram of Long Beach quoting to me excerpts from the Congressional Record of your recent speech relative to the hidden tax. On behalf of the travel agents, I wish to thank you for your continued efforts in pursuing the repeal of this "tax law", which we all feel is unconstitutional and deceitful.

Enclosed please find a copy of an article published in Travel Weekly of August 18 and a copy of a letter that I received from the Air Transport Association of America and my reply. I am, also, enclosing a copy of a letter received from Senator Long.

For your information and guidance, I continued to disregard the law and wrote many tickets separating the tax and the fare. However, since receiving this communication from Air Transport Association, while I do not agree with them that I have in any way violated any of the conditions of the Sales Agreement, I must abide by their request because my appointments as a travel agent would be in jeopardy. While I am still willing to go to court to test the constitutionality of this tax law, I cannot endanger my position by being put out of business; therefore, my reply to the Air Transport Association was to abide by their request and I am now writing the tickets with the tax included.

At this time I have not been contacted by the I.R.S. or any other governmental agency. In the event that I am contacted, I will certainly advise your office.

Kind personal regards.

Sincerely yours,

DAVID PETERS,
President.

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

Mr. SISK. I yield to the gentleman.

Mr. GROSS. Using this bill as an example, suppose, on the passage of this bill, and I hope it will not be approved because of some of the provisions it contains, but suppose this bill is approved by the House and the gentleman should move to substitute a Senate bill? We might have no knowledge whatever of what the Senate bill contained. At what point could a point of order be raised against the provisions of the Senate bill?

Mr. SISK. If the gentleman will permit me, of course, what we are seeking to do in this amendment, should it pass, is to go through the normal procedure that we do very often, to strike out all after the enacting clause and substitute the House passed language on a Senate number and still keep away from this idea of new material.

Now it would be my assumption, of course, that the question of what was in the Senate bill at that point would not necessarily lead to a point of order. I think a point of order would come later in connection with the matter of germaneness which the gentleman knows we are going to be debating a little bit later this afternoon. I am referring now, of course, to the other body's rule which has no germaneness requirement, in attaching nongermane material to a House-passed bill.

But I would not visualize that it would be subject to a point of order if it deals with the same subject matter, and in essence is as a matter of course considered to be germane to the subject.

PARLIAMENTARY INQUIRY

Mr. O'HARA. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. O'HARA. Mr. Chairman, the gentleman from California has offered what I understand to be an amendment to the text of the language of section 119.

I understand that an amendment may be offered to strike out all of that section by another Member, or that a third Member might offer an amendment which would be a substitute to strike out all of that and put in something else.

My inquiry, Mr. Chairman, is this: If this amendment to the text were to be adopted, would it then be in order to offer an amendment to strike the entire paragraph, as amended, or to strike the entire paragraph, as amended, and insert a new text? Or must that be done before this amendment is voted on?

The CHAIRMAN. The Chair would like to inform the gentleman that after disposition of the pending amendment, it would be in order to strike out the entire section, or to strike out the entire section and insert a new section.

Mr. O'HARA. Then, Mr. Chairman, it would be possible for those Members who have any such idea in mind to wait until after the Sisk amendment is voted upon; is that correct?

The CHAIRMAN. The Chair would inform the gentleman that a motion to strike out would not be in order at this point.

The question is on the amendment offered by the gentleman from California (Mr. Sisk).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BRADEMAS

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

The Clerk read as follows:

Amendment offered by Mr. Brademas: On page 40, strike out lines 18 to 22, inclusive, and insert in lieu thereof the following:

"(2) Clause 2 of rule XXVIII of the Rules of the House of Representatives is amended to read as follows:

"'2. It shall not be in order to consider the report of a committee of conference unless such report and the accompanying statement shall have been printed in the Record, at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such report by the House; but this provision does not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement are then available on the floor. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party.'"

And make the appropriate and necessary technical changes in the bill.

The CHAIRMAN. The gentleman from Indiana, Mr. BRADEMAS, is recognized for 5 minutes in support of his amendment.

(Mr. BRADEMAS asked and was given permission to proceed for an additional 5 minutes.)

Mr. SISK. Mr. Chairman, before the gentleman starts, will the gentleman yield for a quick question for the purposes of clarification?

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

Mr. SISK. Does the gentleman interpret his amendment, by the striking of certain language, to have stricken the amendment just adopted, or to leave intact the amendment just adopted?

Mr. BRADEMAS. It would be my intention and hope, subject to the ruling of the Chair, to leave intact the amendment just offered by the gentleman from California, which I support, but I would have to defer to the Chair on the question of whether or not the gentleman's amendment would in any way be affected by the amendment that I offered.

Mr. SISK. Will the gentleman from Indiana yield for a parliamentary inquiry?

Mr. BRADEMAS. Of course.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SISK. Mr. Chairman, did the reading as to the striking of language in the first instance starting, I believe, with line 18, go to the balance of the page, or did it go to line 22? I ask this question in the light of the fact that it is my understanding that the amendment which I have just offered went to the matter below line 22, coming in addition thereto.

Mr. BRADEMAS. I believe that is correct.

The CHAIRMAN. The Chair informs the gentleman from California that the amendment offered by the gentleman from Indiana goes through line 22 on page 40. The amendment offered by the gentleman from California followed line 22 and inserted a new clause in the bill. So the gentleman's amendment will not affect the Sisk amendment just adopted.

Mr. SISK. I thank the gentleman for yielding.

The CHAIRMAN. The gentleman from Indiana is recognized for 10 minutes.

Mr. BRADEMAS. Mr. Chairman, I appreciate very much the clarification of the distinguished gentleman from California, and I want to take this time to congratulate him and all those on his committee who have worked so diligently to bring to the committee and to the House this very important measure.

The amendment that I offered, Mr. Chairman, I offered not only for myself but also on behalf of the gentleman from Illinois (Mr. ERLENBORN) the gentleman from Ohio (Mr. STOKES), and the gentleman from Pennsylvania (Mr. COUGHLIN), as well as on behalf of some 80 Members of the House of both parties. The amendment which I now offer is aimed at providing a minimal and necessary amount of time for the House to review the reports of conference committees and accompanying explanatory statements. We are all aware of the vital and important role that conference committees play in this body. They are granted enormous legislative authority in reconciling the differences in versions of bills passed by both bodies, moreover, because the consideration of conference reports is so important, the rejection of a report can mean the death of the legislation involved.

For these reasons, it is a grave matter for the House to reject a conference committee report. Thus, these reports are generally accepted with little controversy.

Yet, Mr. Chairman, this body is often uninformed about the conference reports on which it is passing. The reason is simple, we are often denied an adequate and reasonable opportunity to study the conference reports and the accompanying statements explaining them. Indeed, the Members most interested in a legislative issue are frequently unable to scrutinize the pertinent conference report before having to cast their vote on it.

Mr. Chairman, it is for reasons such as these, that my amendment is offered as one of the so-called "anti-secrecy" amendments—intended to reform the rules of this body so that it will better deserve the respect of the American public—and so that each Member might exercise his duties more effectively and responsibly.

Mr. Chairman, Members should not have to vote on conference reports without an adequate opportunity to study the changes made in conference committee—changes often of billions of dollars in magnitude and modifications sometimes reflecting a substantial difference in congressional intent from the legislation originally passed by the House.

Mr. Chairman, in summary, unless this body is merely to delegate final legislative authority to conference committees, due consideration should be given to their reports.

Mr. Chairman, let me then briefly outline the provisions of my amendment. I believe my colleagues will find it terse and to the point. The amendment states:

On page 40, strike out lines 18 to 22, inclusive, and insert in lieu thereof the following:

"(2) Clause 2 of rule XXVIII of the Rules of the House of Representatives is amended to read as follows:

"2. It shall not be in order to consider the report of a committee of conference unless such report and the accompanying statement shall have been printed in the RECORD, at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such report by the House; but this provision does not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement are then available on the floor. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party."

And make the appropriate and necessary technical changes in the bill.

Mr. Chairman, basically there are 3 points to my amendment.

First, the amendment provides that conference reports and explanatory statements must be printed in the CONGRESSIONAL RECORD 3 calendar days excluding Saturdays, Sundays and legal holidays, prior to consideration by this body.

At present, conference reports need only be printed in the RECORD any time before consideration. Thus a report could have been inserted late last night and called up for a vote as the first order of business today. And this is as members are all aware, a frequent practice.

The amendment states "calendar" days—rather than "legislative" days—because, it seems to me, we should propose the minimal amount of time necessary for consideration of conference reports.

Second, my amendment states that the printing of conference reports and accompanying statements three days prior to being considered shall not be required during the last 6 days of the session.

Mr. Chairman, this provision continues the present rule—item 912, paragraph 2 of rule 28—which pertains to the end of a session. That rule states that the requirement for the printing of conference reports and accompanying statements in the RECORD is suspended during the last 6 days of a session.

Similarly, the amendment I have offered would not require these documents to be printed in the RECORD prior to consideration by this body during the last 6 days of a session since we normally must dispose of a great volume of legislation at that time.

Third, my amendment provides that conference reports and the accompanying statements—whether or not considered during the last 6 days of the session—must be available on the floor during consideration.

Mr. Chairman, it seems only reasonable to ask that Members be able to read on the floor the exact text—and explanatory statement—of conference reports so as to understand what is in them before voting on them.

I would point out, finally, that my amendment leaves intact the committee reported provision which allots an equal amount of time for debate on conference reports to the majority and minority parties.

In other words, my amendment seeks to make the smallest changes possible—applying the present rules where applicable—in order to have conference reports available for a reasonable amount of time prior to their consideration by the House.

Mr. Chairman, let me try to anticipate one argument against my amendment. Some of my colleagues may say that conference reports are "urgent" business, and they may argue that this amendment would delay consideration of vitally important legislation.

Such an argument is clearly specious.

For, Mr. Chairman, the conference report on a bill often comes after months of hearings, after weeks of delay before being first considered by both bodies, and sometimes after weeks longer in a conference committee.

Under these circumstances, it would be extraordinary if a bill were so urgent that it could not await 3 days of scrutiny. Indeed, Mr. Chairman, if the conference report cannot survive such consideration, it should probably not be passed. Moreover, let me point out that the rules can be suspended should the Members deem extraordinary action necessary, and the rules committee could circumvent the provisions of my amendment by granting a conference report a rule in an unusual situation.

Of the 21 major appropriations and authorization bills for the first session of the 91st Congress which went to conference, 18—85 percent* were voted on by the House within 1 day after the conference report was printed in the CONGRESSIONAL RECORD. The three other reports were voted on by the House in 3 days or less.

Clearly, Members of this very Congress have often had little more than 1 day to study conference reports.

This is dramatic evidence of the "secrecy" which enshrouds many conference reports until the last moment before they are voted on.

Finally, Mr. Chairman, let me point out that the privileged status of conference committee reports—which had its origin in a temporary rule in 1850 and which was formally adopted by this body in 1880, is not here in question.

That privileged status allows for conference reports to be brought up at almost any time.

This privileged status of conference reports is maintained by my amendment, but with the proviso that they be printed in the RECORD at least 3 days prior to their consideration.

Mr. Chairman, it was in 1902, that rule XXVIII of this body was amended to assure that conference committee reports be printed in the RECORD before their consideration, which could mean, as I have said, as little as 1 day's notice before a vote.

But Mr. Chairman, in the seven decades since that amendment, the legislative issues facing this body have grown in numbers and have become immensely more complex.

I feel that these facts alone justify the amendment I am offering today. For it assures a reasonable amount of time for the Members to consider conference reports on a wide range of complex legislative issues and assures the availability of these reports and explanatory statements on the floor.

I urge my colleagues to support this statement and at this point in the RECORD, list the names of those Members who are sponsoring the amendment:

LIST OF SPONSORS

Messrs. Brademas, Erlenborn, Adams, Addabbo, John Anderson, Brasco, Brown of California, Burke of Florida, Mrs. Chisholm, Messrs. Clay, Cleveland.

Messrs. Cohelan, Conyers, Coughlin, Crane, Culver, Daddario, Dellenback, Dennis, Derwinski, Eckhardt.

Messrs. Edwards, Evans, Farbstein, Fascell, Findley, William D. Ford, Fraser, Frey, Friedel, Green of Pennsylvania.

Messrs. Halpern, Hanley, Harrington, Hathaway, Hechler of West Virginia, Helstoski, Hicks, Hogan, Howard, Kastenmeier, Keith.

Messrs. Koch, Leggett, Long of Maryland, Lowenstein, Lujan, Lukens, MacGregor, McCarthy, Matsunaga, Melcher.

Messrs. Mikva, Minish, Moorhead, Morse, Mosher, Moss, Obey, O'Neill, Ottinger, Patten.

Messrs. Podell, Pryor, Reid of New York, Reuss, Riegle, Rodino, Rooney of Pennsylvania, Roth, Roybal, Ruppe.

Messrs. Ryan, Scheuer, Schwengel, Steiger of Wisconsin, Tiernan, Tunney, Van Deerlin, Vanik, Waldie, Weicker, Whalen, Wright.

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

*Only one of these was during the last 6 days of the session.

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

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished gentleman from Indiana for yielding.

I compliment him on this amendment, if my interpretation is sound and correct and in accordance with the thrust of his amendment.

First let me preface my question by saying recently we had what I am sure many of us considered to be an embarrassing experience with respect to the enactment of the legislation which created the Air Transportation Trust Act. I am sure when the bill left the House, and even when it went to conference, there was no provision which made it imperative to prohibit people from knowing the amount of the increase of the tax airline travelers would have imposed on them.

It was quite a surprise—in fact, a shocking surprise—to discover that this was, in effect, a well and clearly written provision which, according to later explanations, was incorporated during the conference sessions but which at no time was even discussed in this House or by any committee.

To me it seems futile to talk about legislative reorganization and reform so long as this type of practice continues. It is a reflection on each and every one of us, and even a reflection on our integrity and our ability as to the prime constitutional function and responsibility we have, which is to legislate.

If I correctly understand the gentleman's amendment, it would help to prevent this type of thing.

Mr. BRADEMAS. The gentleman is exactly correct, even as would the amendment of the gentleman from California, just adopted. My amendment would make it possible for Members to examine carefully conference reports and determine whether or not there was some material in a conference report which in point of fact had not been included by either body and therefore would not be appropriate for inclusion in a conference report.

Mr. GONZALEZ. I compliment the gentleman and I urge my colleagues to approve the amendment.

Mr. BRADEMAS. I thank the gentleman.

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

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

Mr. HALL. In the opinion of the gentleman offering the amendment, would this do any damage to or alter the present rules, which would require that the House by resolution or other device determine a day certain for adjournment sine die, before the 6-day provision was invoked?

Mr. BRADEMAS. So far as I am aware, Mr. Chairman, the amendment I here offer would not be relevant to that particular problem. That is another matter.

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

Mr. BRADEMAS. I yield further.

Mr. HALL. By the very wording of the amendment, in two different places it says that except for 6 days prior to adjournment certain reports would not need to be printed in advance, et cetera. My question deals with whether or not, as in the case of the rule suspensions, which I believe is 7 days prior to a date definitely fixed by resolution of the House, this would be in effect. Would the same rule apply insofar as a definite determination of the date of adjournment by the leadership, by resolution, by action of the House, before the 6-day exempting clause went into effect?

Mr. BRADEMAS. I hope I understand the gentleman's question.

The amendment I offer is applicable only to conference reports and not to other questions, such as resolutions of adjournment. As the gentleman from Missouri can see if he will look at page 39 of the bill under consideration, the sections which we are presently considering pertain only to conference reports and not to other resolutions or other forms of activity in the House.

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

(On request of Mr. HALL, and by unanimous consent, Mr. BRADEMAS was allowed to proceed for 2 additional minutes.)

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

Mr. BRADEMAS. I want to say to my friend from Missouri, perhaps I am not understanding his question, but if he will look at my amendment he will see it has to do only with the question of the printing of conference reports.

I yield to the gentleman.

Mr. HALL. I do understand that. My question is, as simply put as possible, in the case of conference reports will the 6-day period be determined in the same manner as we do for suspensions coming in order 6 or 7 days before the finally set date of sine die adjournment? There has to be some determination of that date.

Mr. BRADEMAS. Yes.

Mr. HALL. How do we tell when the 6 days will be invoked, and when it ends, without the prior determination of the sine die adjournment?

Mr. BRADEMAS. Again, hopefully I understand the gentleman's question.

My amendment has nothing to do with and in no way would change the present method of determination of the last 6 days of the session.

Mr. SMITH of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman from Indiana stated, there will probably be objections to this from a time standpoint. Reading over the amendment, it seems to me it is too inflexible. The purpose and the intent of the language I have great respect for, and I would like to try to work it out.

The amendment says "nor shall it be in order to consider any conference report unless the conference reports are available on the floor." Now, certainly I think that is good language and we should have that in the rules. I do not believe we should consider conference reports until the Members have a chance to read them. But to wait for 3 calendar days, excluding Saturdays, Sundays, and legal holidays, which could be 6 days, because you could recess from Thursday to Monday, then have a legal holiday occur on Monday, and then you would have to wait 3 more days.

This provision does not apply to the last 6 days of the session. I would like to ask anybody how do you determine that last 6 days? We have to have a resolution passed for adjournment sine die. Some years ago the House did pass one. The other body objected quite strenuously. So we are proceeding now where we are passing a resolution 24 hours, maybe, before we are going to adjourn sine die. Now, what happens to conference reports that we have to consider during that period of time? Are we going to put them over and wait 3 days and have the Committee on Rules waive points of order and wait over 24 hours in order to consider the conference report? In other words, it seems to me that we are just locking the House in too tightly here. This procedure is too inflexible and too difficult to interpret from the standpoint of when we can adjourn.

As I stated, I have no objection to having copies of conference reports made available. The last part of the amendment providing for equal time to debate conference reports is already in the committee's bill. I support it.

The gentleman from Texas, Mr. GONZALEZ, mentioned this would take care of the situation where material added in conference was not in either House's version of the bill. The Sisk amendment takes care of that issue. This amendment will not affect that at all. The Sisk amendment, which was just adopted, will confine the conference report to the material in the Senate or the House bill. Nothing could be brought into that conference report for the consideration of the House under the Sisk amendment unless it was either in the House or the Senate passed bill.

So I object to the amendment, Mr. Chairman, although I think we ought to know what we are doing on conference reports. This is a little bit too inflexible, and I believe it goes too far. It would be too difficult for the Speaker to decide these questions when points of order are made as to when we will adjourn, or when the last 6 days of a session begin.

So I oppose the amendment, and I hope we turn it down.

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

Mr. SMITH of California. Yes. I yield to the gentleman.

Mr. SISK. I thank the gentleman for yielding.

I simply want to join with my colleague from California in his position on the matter. I am completely sympathetic with what the gentleman from Indiana seeks to do here, which is given more information and more time for study to the Members. We all agree on that. I find that there is inflexibility here, and the problem as he outlines it in connection with the 6 days is a difficult problem. We do not know what the time will be. The time cannot start running until a resolution for adjournment has been approved. Of course, under our situation no one has any idea of that now. My only objection lies to what seems to me to be

a 6-day delay, which could occur over a legal holiday weekend.

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

Mr. SMITH of California. Yes. I yield to the gentleman.

Mr. BRADEMAS. As I understand the gentleman's question, it seems to me that I have in no way by my amendment changed the rules of the House with respect to the 6-day provision. I call the gentleman's attention to rule XXVII, the change or suspension of rules, which reads as follows:

> No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, preference being given on the first Monday to individuals and on the third Monday to committees, and during the last six days of the session.

So I appreciate the comments of the gentleman but I do not believe that my amendment as offered has any effect in changing the present rules of operation of the House with respect to the last 6 days of a session.

Mr. SMITH of California. May I ask the gentleman a question?

Mr. BRADEMAS. Certainly.

Mr. SMITH of California. The gentleman from Indiana is very knowledgeable of the rules of procedure here. May I ask the gentleman from a practical standpoint now under the House procedures and its rules, when would the gentleman say the last 6 days of this 91st Congress, second session will start, and how will we determine it as to the last 6 days before we adjourn?

Mr. BRADEMAS. The gentleman's question is an exercise in metaphysics, not in parliamentary law because I answered the gentleman: The same way we presently determine the last 6 days of a session.

Mr. SMITH of California. We never have had the last 6 days determined before adjournment in a resolution passed for a sine die adjournment but once during my 14 years here. We are talking about adjournment now by October 15, or maybe October 22, or Thanksgiving or Christmas, but I imagine that we will all get ready to go about 24 hours before we pass a sine die resolution. What will we do with all the conference reports then?

Mr. BRADEMAS. I understand the point the gentleman is making and I think it is very well taken, but I could ask the same question that the gentleman asked as to the rules of the House, because in the rule that I have just read, which is presently the rule, the language is used "during the last 6 days of a session." That is presently the rule.

Mr. SMITH of California. That rule has been ignored as long as I have been here in the House.

Mr. BRADEMAS. That is a different matter.

Mr. SMITH of California. I am for the gentleman's principle but I think that it is going to make it awfully difficult to handle say the 16 major bills from ways and means which have passed the House and which are in the Senate, or if the appropriations are held up, how are we going to get them out at the end of a session?

Mr. BRADEMAS. I understand the point the gentleman raises, but I think the gentleman upon reflection—and I see a smile come to his cheeks, would agree with the fact that my amendment in no way changes the rules of the House under which we are presently operating that contains the phrase "during the last 6 days of a session." So I do not change that.

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

Mr. ERLENBORN. Mr. Chairman, I support the amendment offered by the gentleman from Indiana and cosponsor it as he stated when he presented the amendment. This amendment is complementary to the one that has just been adopted without objection. The amendment that I refer to was the one offered by the gentleman from California (Mr. SISK). I think that was an excellent amendment, as I stated in my support of it at the time, but if we want to make the Sisk amendment effective we must give the Members of the House an opportunity to read the conference report to see if the conference report conforms with the rules of the House.

As the practice is today, the conference report can be filed any time prior to midnight by asking unanimous consent. That is the usual practice. Unanimous consent is given to file a report at any time prior to midnight and it is included in the RECORD for that day. The report can then be called up at the opening of business the next day, and there is little opportunity for the Members to look at the conference report to determine whether the rules have been conformed to.

As to the provision of counting 3 calendar days, if there is a legal holiday, I think it is rather obvious that it would be an inopportune time to file such a report on a holiday weekend. For instance, if the House had been in session on Friday prior to the Labor Day weekend unanimous consent could have been granted to file a report by midnight on Friday; the proceedings of that day, the RECORD, would not be printed until Saturday. No one would have an opportunity to see this over that weekend, Saturday and Sunday or Labor Day, Monday, and then the matter could be brought up at the opening of business on Tuesday, and there would be the same difficulty examining the conference report to see if it conforms with the rules of the House, or to see if a Member wants to support it, or if he wants to actively oppose the conference report.

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

Mr. ERLENBORN. I yield to the gentleman.

Mr. FRASER. As to the last 6 days, it seems to me that what this does is to provide one option. If there should be a resolution for adjournment adopted ahead of time, then you would know when the 6 days began to run.

The gentleman has also identified another option, which is a request for unanimous consent.

A third option, of course, would be for the Committee on Rules to report out a rule suspending the 3-day layover requirement when we were clearly coming to an end of a session and there was no sine die resolution.

So it seems to me, if we took this 6-day provision out, we would simply be taking out one option. But as we come to the close of a session, there are a number of things that may have to be done to make sure that we could close all business, and as I say, I do not see any harm in having this provision in, the 6-day provision, even though it may not be operative in most cases.

Mr. ERLENBORN. I think the gentleman has made a valuable contribution. He is right, in my opinion.

First of all, let me state that the question of the 6 days is not introduced by this amendment. I think the gentleman from Indiana (Mr. BRADEMAS) tried to make this clear. Reference to the last 6 days of the session is in the present rule and any of the problems that arise as to identify when these last 6 days begin to run is presently a problem in the rules. So we are not introducing this as a new problem.

The gentleman, I think, correctly states that there are several alternatives.

One would be to see that a resolution providing for sine die adjournment is adopted at least 6 days prior to the end of the session, which is seldom done. But it could be done if the leadership of the House so required.

Second, the Committee on Rules can grant a rule for the consideration of conference reports.

The gentleman suggests further that unanimous consent could be given.

So I think the safeguards are there to see that the business of the House in the last 6 days can be handled expeditiously. Let us not, in worrying about the last 6 days of the session, prohibit, as we now do during the balance of the session, Members of the House being able to properly manage their legislative business by seeing the conference reports and having the opportunity to examine them before being required to vote on them on the floor.

Mr. SMITH of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman.

Mr. SMITH of California. Mr. Chairman, we are talking of suspension of rule 27 which has to do with the suspension of bills on the first and third Monday of the month. That is the start of legislation. In other words, we have a bill and, with two-thirds present and voting, suspend and pass a bill—and that starts it.

Now the conference report is the end of the legislation.

So they are two different subject matters. We are not talking about changing rule 27, which does not apply to sine die adjournment. That has to do with suspensions where we institute legislation.

Mr. ERLENBORN. May I answer the gentleman. Apparently, the gentleman is not aware that presently under rule 28

we have reference to the last 6 days of the session. We are not referring to suspensions on Monday. We are referring to the last 6 days in rule 28. There is no change in this amendment we are offering.

Mr. COUGHLIN. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Indiana (Mr. BRADEMAS), the gentleman from Illinois (Mr. ERLENBORN), and the gentleman from Ohio (Mr. STOKES).

As a relatively new Member of this great body, few things have frustrated me more than the mysteries of the conference report.

At present, conference reports can be taken up any time after they have been printed in the RECORD. Often they are rushed through so fast they never appear on the whip notices. Sometimes, a report filed late one day is voted on as soon as the House convenes the next day.

I, as other Members, have often walked from my office to the House floor for a vote without even knowing what was being voted upon, much less what the report contained. Some conference reports run to several hundred pages and involve considerable changes in dollar amounts and the law itself. As a result, there is little chance for a Member to cast an intelligent vote of he does not know what is in the report. It also usually precludes some Members with interest in the report from taking part in the debate.

It makes no difference, in the last analysis, how many open hearings are held, how many hours there are of debate, or how many amendments are accepted, because it is conference reports that become law. If Members cannot study the final product, how can they possibly cast a wise and intelligent vote?

The primary purpose of this amendment is to give Members sufficient time to familiarize themselves with these reports before they are faced with a debate and vote on the floor. The amendment is also designed to eliminate the secrecy which currently surrounds much of the formulation and passage of conference reports.

There are those who argue that conference reports are, by their nature, urgent pieces of legislation that must be passed without any delay whatsoever. In response to that, I say that any legislation that takes weeks, often months, of preparation deserves to be available for at least 3 calendar days in its final printed form so that it can be studied by all those who must ultimately bear responsibility for it.

In addition, a 3-day layover of conference reports will encourage those responsible for drawing up the report to complete their work in such time that a question of urgency never arises.

If, however, there does occur a situation in which it is deemed prudent to bring out a conference report and vote on it immediately, then either a vote can be taken on suspending the rules, or the Rules Committee can be asked to grant a rule suspending the printing.

This amendment is not designed to slow up or hinder the orderly passage of legislation. We recognize, for instance, that the last days of a session make such a rule unwise, and it is for that reason that we included suspending the 3-day layover provision during the last 6 days of the session. The amendment still requires, however, that copies of the report and its accompanying statement be available to Members on the floor at the time of debate.

I believe that this amendment is the least we can do to insure that Members are fully aware of the provisions in the final legislation on which they are asked to vote.

I ask that you support us by voting for this amendment.

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

Mr. Chairman, I rise in support of the ammendment. What happens on some occasions in dealing with conference reports is unconscionable. It is unconscionable that a conference report may be printed in the RECORD one night and called up in the House at noon the next day as the first order of business. Oftentimes Members do not have the time—they may be busy with an important committee meeting in the morning—to read the RECORD containing the report. So we are confronted with consideration of what may be a very important conference report without having had the time to reasonably consider what it contains.

Insofar as the 6-day rule is concerned, let the leadership of the House fix the time for sine die adjournment—that is all they have to do. Then they can call up all the bills they want to under suspension of the rules, or conference reports in less than the 3 days as provided in the amendment. If I were to find any fault with the amendment, it would be the suspension of the 3-day provision in the last 6 days of the session. Some of the most important conference reports are called up near the end of the session. This is when we may need more time to consider conference reports than at any other during the entire session of Congress.

But I think the amendment is a good one and I support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. BRADEMAS).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to be offered to this section? If not, the Clerk will read.

The Clerk read as follows:

ADDITIONAL PROVISIONS PERTAINING TO GERMANENESS OF AMENDMENTS OR MOTIONS WITH RESPECT TO MEASURES BEFORE THE HOUSE

SEC. 120. Rule XX of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"3. Any amendment or motion with respect to any measure before the House, other than any amendment within the class of motions or propositions to which clause 7 of rule XVI applies, which would be subject to a point of order on a question of germaneness under clause 7 of rule XVI if that clause were applicable to that amendment, or any rule or order or motion providing for agreement to such amendment to that meassure, or any conference report containing any such amendment, shall require for adoption, on the demand of any Member, a vote of two-thirds of the Members voting, a quorium being present. It shall be in order to debate for forty minutes, before the vote is taken, any such amendment, motion, rule, or order, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, the same. This clause is subject to, and does not modify, change, supersede, or otherwise affect, the application and operation of clause 7 of rule XVI.".

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. GIBBONS. On page 41 strike all of section 120, lines 1 through 23, inclusive.

On page 2 in the table of contents strike "Section 120" through "before the House" and renumber as necessary.

The CHAIRMAN. The gentleman from Florida (Mr. GIBBONS), is recognized for 5 minutes in support of his amendment.

Mr. GIBBONS. Mr. Chairman, my amendment is a very simple amendment. It would strike all of the language that the Members will find on page 41 of the bill.

As anyone can see from examining the language on page 41, this is entirely new material. It is new to the rules of the House of Representatives and it provides that, in effect, the Senate cannot amend one of our bills unless it complies with our germaneness rule. I know there are some people who would like to have the Senate do that, and I imagine the Senate has a few little cuties they would like to have done to us too, but I submit as a matter of comity and as a matter of legislative practice, so that this bicameral legislative system can operate, it appears to me we cannot, in effect, amend each other's rules.

The Members of the House cannot make such changes in their rules that, in effect, by inference amend the rules of the Senate, and that is what the language on page 41 does.

There are many, many historical examples of good pieces of legislation and bad pieces of legislation that have been passed in what would be in violation of this particular rule here in the text, which I am seeking to strike. Regardless of the merits of any of those pieces of legislation or their demerits, it seems to me in a bicameral system such as we enjoy in this country we have to grant to the other body comity for their pieces of legislation. We cannot require that a piece of legislation they send over here require a two-thirds vote rather than a simple majority vote. I would seriously doubt the constitutionality of the language of the provisions on page 41, but that is not for us to decide here.

I would say as a matter of legislative practice, if we want to accomplish anything and pass any legislation, we would have to grant to the Senate what we would want them to grant to us. Let us not tinker with their rules, with the understanding that they will not tinker

with ours, because if we do tinker with each other's rules, there will not be any legislation passed.

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

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

Mr. UDALL. Mr. Chairman, I have always had mixed feelings about the germaneness rule. I am always frustrated, as I am sure other Members are, when something in which I am intensely interested in is acted on in the Senate, and a nongermane provision is added. I would be inclined to support the gentleman's amendment, not because the present practice benefits liberals, or conservatives. I do not know how I would stand the merits of the argument. My main reason is: I would like to see a reform bill this year. Time is running out, and if the bill as now written goes to the Senate, in my judgment it is very clear the Senate will never accept it with that provision in; there will have to be an extensive conference and there simply will not be a bill. So we should take this provision out and then maybe come back and fight it out on the merits on another day.

I think this is the strongest possible reason for adopting the amendment offered by the gentleman from Florida. The bill will not become law this year if the existing language stays in.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for his remarks. He has certainly put his finger right on the pulse of this situation.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida.

I think, first, Mr. Chairman, I would like to say in connection with the comments of my good friend, the gentleman from Florida, that he is totally erroneous when he mentions about our dealing with Senate rules. We do not deal with the rules of the other body. This has nothing whatsoever to do with the rules of the other body. This is an action which we can take here any day by mere House resolution. It requires no approval or disapproval or anything else by the other body.

In fact, I might say, Mr. Chairman, that there has been considerable discussion, and there was even in the subcommittee, that in the event this entire bill failed to move because of some development in the other body or further down the line, that the House could take title I, eliminating only those references to the other body, and pass as a simple House resolution practically all the material in title I.

It does deal exclusively with the House committee, with the House rules, and with procedures on the House floor.

Without going into the merits or demerits of the germaneness amendment, certainly it is within our prerogatives to determine our own rules. That is the only thing which is being considered here. In no sense can it be considered to have any bearing upon the rules or procedures of the other body.

I should like to further say that I have serious doubts about this particular legislation having any effect upon the passage or the lack of passage by the other body of a legislative reorganization bill this year. It would be my assumption, based on the information I have received—and to some extent I referred to it earlier in my discussion—that there is considerable interest by Members of the other body in a legislative reorganization bill. I happen to be hopeful that if we can proceed this week to conclude action on this they in turn probably will pass something. It might be that they might pass a bill without this language. That is strictly up to them.

The issue here is that this deals with a matter affecting the House. It is a matter the House can act on by resolution. It does not have to be in this bill or be signed into law as a part of a reorganization bill or a part of a statute.

Therefore, it comes down to the matter of whether or not we wish to do something about this business of dealing from time to time with matters wholly removed from the subject with which the House bill may deal.

I am sure we are all familiar with instances in the past. For example, there was an immigration bill, a private bill dealing with an immigration matter in connection with one individual, as to which we were faced with a situation where a public works project was attached to that particular bill.

Again this is a matter, I suppose, for the individual desiring the project, who wanted to seek that method of achieving the result on legislation, and in that sense it would be in his favor, yet I believe we would all quickly agree that is not good legislative procedure. Basically that is what we seek to deal with in connection with this.

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

Mr. SISK. I am glad to yield to the gentleman from California.

Mr. REES. I thank the gentleman for yielding.

Is it not true that this amendment would in reality define what the other body rule would be? The House has a very tight germaneness rule. In fact, I believe it is too tight. The Senate has a loose germaneness rule. If we put changes in our rules, we would be telling the Senate they must use our rules in their amending House bills, by requiring a two-thirds vote.

Mr. SISK. If my colleague will permit me, we are not telling the Senate anything.

Mr. REES. Yes. We are telling them they have to have a two-thirds vote on their amendments to our bills.

Mr. SISK. We are not telling them anything.

The gentleman and I are both in violation of the rule when we use a term other than "the other body." Let us try to stay within the rules.

We are not telling the other body anything. We are simply setting up a procedure whereby in the event that certain circumstances develop we can go ahead and pass the legislation.

If the gentleman will permit, this is a matter a great many people have been interested in. I might say the distinguished chairman of the Ways and Means Committee, the distinguished chairman of the Judiciary Committee, the distinguished chairman of our committee (Mr. COLMER) and many others have been interested.

The language we have here today is a compromise worked out by a number of people who, as committee chairmen and others concerned with the handling of legislation in conference, have worked on and developed language to permit the House to go ahead and work its will. It in no sense binds, restricts or withholds from the other body any kind of action.

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

Mr. Chairman, I think, as a member of the Committee on Ways and Means, I know the rationale back of this provision in the bill. Nobody is more upset than the members of the Committee on Ways and Means when we send over a simple seedling and it comes back a full-blown Christmas tree from the other body—and this happens frequently. Certainly, if this provision were a simple House resolution, I would support it and wholeheartedly. As a part of this legislation, however, it seems to me that we must consider its probable impact on the future course of this legislation.

Mr. Chairman, I am one of those who believe that it is awfully important for our central institution of government to demonstrate itself capable of internal reform. I think that the other body, regardless of the technical means by which this provision is expressed, is bound to view this provision as an implied criticism of their rule of nongermaneness.

It is important, with the length of time we have left the 91st Congress, that we send this legislation on its way with as few obstructions to passage in the other body as necessary.

If I were a Member of the other body, I might feel, regardless of the form in which this provision is expressed, that I was receiving some degree of criticism from the House of Representatives. Therefore, I hope that we will express a restraint in our approach to substantive changes affecting the other body as we complete our consideration of this reorganization bill.

This bill is, for the most part, a House reorganization bill, and it should remain that. It is quite obvious that the other body would not have time for extensive hearings. If I read the priorities expressed by the majority leader there correctly, there is not a great deal of priority interest in this provision. If we load it up with things even impliedly affecting the rules of the other body, it is obvious to me that there is going to be some further delay in the consideration of this legislation there.

So, if this can be handled as a matter of a House resolution, let us consider it separately. There is no question but what we can bring about substantial change in the House rules at the beginning of the next session of Congress; but having come this far on this measure, let us move ahead and get it passed in a form

which will be least likely to trample on the sensitivities of the other body.

Mr. Chairman, I hope that the amendment will be passed. I hope it will have the understanding of the membership because I do think it is likely to have a major impact otherwise on the course of this legislation.

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

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

Mr. GROSS. How does this affect the other body? This provision says that rule XX of the Rules of the House of Representatives is amended by adding at the end thereof, and so on and so forth. In what way does it affect the rules of the Senate?

Mr. CONABLE. It is a change in the House rules which requires or permits a Member of the House to insist on a two-thirds vote of support on any amendment that has been added in the other body which is nongermane. It is certainly an implied criticism of the rule which permits the other body to add nongermane amendments.

Mr. GROSS. Then, is the gentleman saying that this provides for a two-thirds vote in order to strike out the nongermane amendment added by the other body?

Mr. CONABLE. That is correct.

Mr. GROSS. This ought to be defeated. Why should the House have to go to a two-thirds vote to strike out a nongermane amendment added by the other body?

Mr. CONABLE. No; this says a special two-thirds vote can be required on an amendment passed by the other body which is nongermane. Unless it is passed by a two-thirds vote in this House, on request by a Member of this House, then it is considered defeated.

Mr. GROSS. Then the requirement for a two-thirds vote is in the other body, is that what the gentleman says?

Mr. CONABLE. No; the requirement is that the amendment passed by the other body which is nongermane must have a two-thirds vote of support in this House or it is considered defeated.

Mr. GROSS. Why should we have any kind of a vote on an ungermane Senate amendment? Why should it not be subject to a point of order?

Mr. CONABLE. The question is, What happens when the bill comes back from conference and it has a nongermane amendment added by the other body?

Mr. GROSS. Well——

Mr. CONABLE. And this is the requirement.

Mr. GROSS. Instead of this procedure I would be in favor of an amendment that provided we could knock it out on a point of order.

When it comes to a matter of legislation of this character, as important as this is, I am not interested in this thing that is spelled c-o-m-i-t-y and which oftentimes ends up as "comedy." I am not interested in protecting the so-called comity between the two bodies when across the way they hang nongermane amendments on our bills. We ought to be able to eliminate them expeditiously and without a vote.

Mr. CONABLE. Whether the gentleman from Iowa is willing to accept this or not, this is a bicameral legislature, and I think some degree of comity is required if we are going to be able to carry on successfully at both ends of the Capitol.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, I am in limited agreement with the gentleman from Iowa on his last point. I think there ought to be some way in which we can handle these things as we do legislation on an appropriation, as separate amendments in disagreement, but I do not go as far as the gentleman from Iowa who says we ought to be able to strike it out as nongermane on a simple point of order.

Mr. CONABLE. That obviously would be, if the gentleman would permit me to interrupt, a House intrusion on the rules of the other body.

Mr. O'HARA. That is right, and in the bill the committee is introducing a two-thirds vote concept as if a nongermane provision was a constitutional amendment. I do not know what business the two-thirds vote has in here.

I would ask the gentleman from Iowa what his feelings are about the two-thirds vote? Does he not believe, we either ought to fish or cut bait. This business of a two-thirds vote does not appeal to me as being a sensible way of handling it.

Mr. GROSS. If the gentleman will yield further, is the other body not transgressing upon the House, when, for instance, it takes a House bill dealing with the mailing of master keys for automobiles and adds wholly ungermane legislative subject matter to that bill? They are invading the prerogative of the House, which does have a rule as to germaneness.

Mr. CONABLE. I think it boils down in the final analysis to whether or not you want to see this reorganization bill pass in this session of the Congress. This can be handled separately and it should be handled separately.

The CHAIRMAN. The time of the gentleman from New York has expired.

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

Mr. Chairman, I do not know of anything that I am more interested in since I have been a member of the House Committee on Rules than I am in this provision that we are now debating in the reorganization bill. I have chafed for years about the other body violating the rules of this House by placing entirely foreign, extraneous, and nongermane matter on House-passed bills.

Now we have been hearing arguments about this bill not becoming law if it passes with this provision in it.

Since when—or is this part of the whole scheme—since when do we have to legislate and particularly make our rules in conformity with the wishes and desires of the other body?

They make whatever rules they see fit to make. Certainly, it is our privilege for us to do the same thing. So I am not persuaded by this argument that this bill will not become law if this provision remains in the bill.

I am not going to have the time, and you probably would not have the patience to go into detail about all of the instances in which the Senate has added nongermane amendments to House-passed bills. But how many times have you seen here in the last few years, and it is getting worse every year, that we pass a bill here and it goes over to the other body; only to come back with extraneous matter attached. It may be ever so innocuous or it may be ever so important. In the other body, they place something entirely extraneous and something entirely nongermane or something entirely foreign to the matter which the House passed and sent over there. Then, they send it back over here to us and we are forced to take it or we leave it.

Before I forget it, I want to address myself to the gentleman from Michigan (Mr. O'HARA) who asked a rather pertinent question a moment ago of the gentleman from Iowa (Mr. GROSS).

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

(Mr. COLMER asked and was given permission to proceed for 5 additional minutes.)

Mr. COLMER. Mr. Chairman, I thank the House and I thank the Chair.

I agree with the gentleman. Why two-thirds? The answer is very simple. As a practical matter, the answer is to try to retain this provision in the bill. If the bill provided for a simple provision subjecting the offending amendment to a point of order, I seriously doubt the House would agree.

I agree with the gentleman from Michigan that it ought to be just a simple majority vote. I would like to have it that way, and if the gentleman from Michigan would offer such an amendment, I would support it.

But getting back to some illustrations, I point out that the Ways and Means Committee is one of the most important committees in the House. They come in here with a bill which, under the Constitution of the United States, must originate in this body. First, they come to the Rules Committee, ask for a closed rule, and they usually get it, because it is traditional, under the leadership of both parties since I have been in the Congress, to get a closed rule on such bills.

So they come to the floor of the House. Incidentally, I point out that as a true liberal I have opposed closed rules. I am opposing one up there in the Rules Committee now. I have always opposed closed rules.

So what happens. The bill comes to the floor of the House. We debate the measure for 4 or 8 hours with no opportunity for amendment, germane or otherwise. The bill goes to the other body. They consider it for weeks or months, as the case may be. Any Member of that body is free to offer an amendment and talk at length upon any phase of the bill.

Mr. WHITTEN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty-four Members are present,

not a quorum. The Clerk will call the roll.

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

[Roll No. 297]

Abbitt	Edwards, La.	MacGregor
Adams	Erlenborn	Marsh
Anderson, Tenn.	Evins, Tenn.	Meeds
	Fallon	Meskill
Ashbrook	Feighan	Morse
Baring	Flynt	Murphy, Ill.
Barrett	Foreman	Murphy, N.Y.
Beall, Md.	Friedel	O'Neill, Mass.
Bell, Calif.	Fulton, Tenn.	Ottinger
Berry	Garmatz	Patman
Blanton	Gilbert	Pelly
Blatnik	Gray	Philbin
Boland	Hansen, Wash.	Podell
Brock	Harrington	Powell
Brooks	Harsha	Reifel
Brown, Calif.	Hastings	Rogers, Colo.
Burton, Utah	Hébert	Roudebush
Bush	Hicks	Roybal
Button	Hogan	St Germain
Cabell	Horton	Sandman
Clark	Jones, Tenn.	Scherle
Clausen, Don H.	Karth	Scheuer
	Keith	Schneebeli
Cohelan	King	Sebelius
Collins	Kleppe	Springer
Conte	Kluczynski	Staggers
Conyers	Landgrebe	Taft
Cowger	Landrum	Teague, Tex.
Daddario	Lloyd	Thompson, N.J.
Dawson	Lujan	Tunney
de la Garza	Lukens	Watson
Denney	McCarthy	Weicker
Diggs	McCulloch	Widnall
Dingell	McDade	Wilson, Charles H.
Donohue	McEwen	
Dorn	McMillan	Wold
Dowdy	Macdonald, Mass.	
Downing		

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill H.R. 17654, and finding itself without a quorum, he had directed the roll to be called, when 321 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Mississippi (Mr. COLMER) has 2 minutes remaining.

(By unanimous consent, Mr. COLMER was allowed to proceed for 3 additional minutes.)

Mr. COLMER. Mr. President, when we were interrupted with the quorum call, I was attempting to illustrate some of the inequities of the present rules. I want to call to the attention of the House just briefly one example, because we do not have time to go into all of the examples. One of the latest examples was when the House passed a simple bill here, dealing with a minor matter, and the Senate struck everything out of the House bill except the number and inserted an entirely foreign matter. The House bill was one dealing with the importation of wild animals.

Mr. Chairman, I repeat that bill dealt with the importation of wild animals. In the other body they struck everything but the number of that bill and substituted the importation of beef from foreign countries. That is one illustration.

There was another which the gentleman from New York (Mr. CELLER) was very much interested in. It was a minor bill, and the Senate bypassed the House. The gentleman from New York (Mr. CELLER) will comment on that later, I am sure.

The last two bills that the House passed dealing with revenue matters—and that is something which the Constitution provides should exclusively originate in the House—were entirely rewritten, and many foreign provisions were put in those bills, such as textile quotas, surtax, expenditure limitation giving the Executive authority to set priorities, and an exemption for 5 years from taxation on certain other matters. All of this was foreign.

What does all this do? I am not going to attempt to go into these details further. What does it do? When they do that, it bypasses the committees of the House. We have no opportunity for committee consideration. We are called upon to vote it up or vote it down.

I must mention one other, because it is fresh in our minds. It was the 18-year-old provision, written into one of the civil rights bills by the Senate. That had no connection whatever with the bill under consideration as passed by the House. What was the result? It came back here with this nongermane amendment, and you and I were called upon and had to vote on the question of the inclusion of the 18-year-olds, a very doubtful constitutional provision, without 1 minute of consideration by the appropriate committee or for that matter with very little debate.

When you went home, if you voted against that because of conscientious scruples and observing the Constitution as you interpreted it, you were charged with voting against the 18-year-olds. You had no opportunity whatever to pass upon the 18-year-old amendment separately from the civil rights provision. It was a question of taking the whole package or nothing.

What are we proposing to do here? Your committee, in order to avoid this unwise legislative procedure, in order to try to restore to this House some semblance of the stature and recognition it deserves, is simply saying that if an amendment is placed upon a House-passed bill by the other body, if that amendment were not germane under the House rules, when it comes back here in conference.

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

(By unanimous consent, Mr. COLMER was allowed to proceed for 2 additional minutes.)

Mr. COLMER. When it comes back here with that extraneous, nongermane amendment any Member of this House can demand a separate vote. He does not have to be a member of the committee. Any Member can do it. We are not shutting it off entirely, but it requires a two-thirds vote to adopt that extraneous amendment. We would still not have the committee consideration that we ordinarily have, but this is just a step to give this House an opportunity to debate the nongermane provision for 40 minutes and have a separate vote thereon.

Now, just finally, Mr. Chairman, rule XX of the House up until 1966 simply provided that any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the State of the Union if originating in the House it would be subject to that point of order. That was the rule up until 1966. That had been the rule since 1789, if I recall the date correctly. However, it was amended in 1966 so that the present procedure now prevails.

I repeat for 15 years I have tried to do something about this, and I say to those who say it ought to be done differently that I have tried as a member of the Committee on Rules to do something about it differently by a simple resolution, and I have failed. So here it is in this reorganization bill, and I ask you to pass it.

Mr. CELLER. Mr. Chairman, I oppose the amendment.

I will say to the Members of the House that it is high time that we assert ourselves and we say to the other body that it is time we insist upon our own rules.

The other body, in a sort of alleged rarefied atmosphere, shall no longer have the right to add on to our bills nongermane amendments. They look upon us from their Olympian heights as mere mundane characters and they do not give a tinker's dam about our own rules.

Now, we have rules. Those rules should be obeyed. We have to be either men or we are going to be mice. We have to stand up to this other body and say that if you want to amend, then amend according to the rules. If you want to amend according to the rules of your house, fine, but when it comes to this body, we have rules and we ought to abide by those rules. And you must abide by them.

Here we have situations where insignificant bills are sent to the other body and they add onto them highly important provisions and expect us to swallow willy nilly those highly important provisions. In a sense, they seek to ram them down our throats. We must put a stop to this unfair practice.

Let me give you an illustration. The gentleman from Mississippi (Mr. COLMER) mentioned one situation. We passed a very insignificant revenue bill. In the Senate, in their attempt to force the issue in the House, they tagged onto that insignificant revenue bill a provision immunizing the National and the American Football Leagues from the operations of the antitrust laws.

They knew that the Committee on the Judiciary, of which I am chairman, was opposed to granting any immunity from the antitrust laws to this football combination, which was an abominable combination, and so to skirt around the Committee on the Judiciary they attached to this unimportant Revenue bill an amendment, really in the form of a new bill, endorsing immunization of the football combination from antitrust laws. It did not go to the Judiciary Committee, instead it went to the Committee on Ways and Means, since they had jurdisdiction of the House Revenue passed bill. All we had as an opportunity to fight that combination, that unholy

merger, was an hour's debate by way of consideration of a conference report. There was no opportunity for any committee to consider the matter of immunization from the antitrust laws, no referral to a committee. We were told to take it or leave it with only an hour's debate.

Now there were some Members who wanted that Internal Revenue statute, insignificant though it was, but in order to get that they had to swallow the bigger proposition, namely the immunization from the antitrust laws of the football combination.

Recently we had a situation where we provided for an extension of the Voting Rights Act of 1965. We labored long and assiduously to get that bill out. It went over to the other body. What did they do? They tagged onto it something utterly irrelevant which had no relation to the Voting Rights Act of 1965, namely the lowering of the voting age. You tell me what relation one has with the other? None whatsoever. It came over here and I as chairman of the Committee on the Judiciary, was sorely put to it because I was very anxious to get the extension of the Voting Rights Act of 1965. But in order to do that I had to accept the lowering of the voting age bill which I opposed. And many other Members were in the same position that I was in. We had no hearing on the lowering of the voting age bill, important and far reaching as that proposal was. There was no reference of it to a committee, it just came to us from out of the blue, as it were, and we had to accept or reject it. And this was a nongermane amendment placed upon a House bill.

Now do you think that is right? I think that is probably wrong and we should stop it. The proposal is not completely the way I want it but I want some provision against germaneness.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CELLER was allowed to proceed for 3 additional minutes.)

Mr. CELLER. If 60 percent of the Members want to consider the provision that is a fair indication that the House wants something of that nature.

For that reason I think it is high time that we, shall we say, strike a blow for liberty? I hate like blazes to use that hackneyed expression, but it is compelling.

You know it was Speaker Reed, speaking of the Senate once who said:

> You know, I had a dream the other night and I dreamt that the President was elected and chosen by the Members of the Senate, and the Chief Justice of the United States was to count the ballots.

So they had the election, according to this dream of Speaker Reed, and the Chief Justice counted the ballots and he made this announcement, "Each Senator got one vote."

Now that is about the size of it over there.

When you get over to that body, you get a sort of feeling that you are in a charged atmosphere, and you can do everything and anything that you want to do. I do not think they should have this right. It is about time that we saw to it that they shall cease placing nongermane amendments on House bills. I do hope the amendment offered by the distinguished gentleman from Florida is not considered favorably.

I am sorry that I have to speak in this position. I think it was Lord Stillwell in the House of Lords who came in one day and said:

> I do not feel very well.

And he started to address the House of Lords while he was seated. Somebody made a point of order that he had no right to speak while he was seated. Lord Stillwell in high dudgeon said:

> If I cannot speak standing, I shall speak sitting—and if I cannot speak sitting, I shall speak lying.

And they all said:

> Which he will do in either event.

So forgive my being in this position to speak to you. But I do hope the Gibbons amendment will not survive.

The CHAIRMAN. For what purpose does the gentleman from Missouri (Mr. BOLLING), a member of the committee, rise?

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

Mr. Chairman, I hesitate to rise immediately after two of the distinguished chairmen of the House, my own chairman, the chairman of the Committee on Rules and the chairman of the Committee on the Judiciary, with whom I have had the privilege of working on many occasions.

But I did reserve the right in the subcommittee and in the full committee to oppose the amendment of the gentleman from Mississippi (Mr. COLMER) which is now a part of the bill. I strongly support the Gibbons amendment.

The fact of the matter is that no matter how often one says that we are not interfering with the Senate, the Colmer provision does interfere with the rights of the Senate.

The Constitution is very explicit in its view on the subject, which rises in connection with one of the very important prerogatives of the House.

The Constitution says:

> All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

Now very clearly in a bicameral legislature, one House cannot tell the other House what it can do. One House cannot tell the other House that its amendments are going to be subjected to a particular method of treatment.

Now this House has no problem in turning down any Senate amendment, anytime it wants to. All it has to do is to vote down the bill in which the Senate amendment comes—in other words vote down the conference report.

It just happens that this subject has been a matter of controversy from the beginning of time so far as the history of the House and the Senate is concerned. Quite naturally, the Senate is going to be jealous of its procedures just as we are and should be, jealous of our procedures. But I think it is quite clear that any provision that puts a special rule on the treatment of any Senate amendment is in conflict with the intent of the Constitution. Furthermore, anybody who knows anything about the attitude of the Senate toward this right knows that it is a fact that no reorganization act containing the so-called Colmer Provision can become law.

So if we want to follow good procedure, from the point of view of the House and from the point of view of one body in a two-body legislature, we should vote for the Gibbons amendment, and if we really care about a reorganization bill becoming law, we should vote for the Gibbons amendment. We should very clearly make it our policy to defend the integrity of our institution and not interfere with the integrity of the U.S. Senate.

Mr. DELLENBACK. Mr. Chairman, I move to strike the necessary number of words.

The CHAIRMAN. The gentleman from Oregon is recognized for 5 minutes.

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

Mr. DELLENBACK. Mr. Chairman, part of the strength of what we have done with this measure so far is that we have made no attempt to interfere with what the other body may do. Time after time the chairman of the subcommittee has requested that we dispense with reading those sections that deal with what the other body may or may not do, and we have confined our deliberations to what the House may do. It is literally true, as the chairman of the subcommittee said earlier, that this particular provision we are now debating deals with the rules of the House. Of course, we should be and are able to amend the rules of the House. But let us not be blind, as we look at that which is technically accurate and forget the fact—let us not be blind to the fact—that in its impact, what we do or do not do on this particular proposal will, as the gentleman who has immediately preceded me in the well has pointed out very clearly, be dealing with what the other body may or may not do.

Some of us may feel very strongly—and I confess I am one of those who do—that the substance of this particular provision now in this measure is a good provision. Personally I feel strongly that I would like to see us with some tool within our own procedures that would permit us to put some brake on what the other body may do on nongermane amendments. But I think it is fundamentally true that this is not the time and this is not the place and this is not the way to seek to amend what has been done for many years on this particular point. If we insist on leaving in this bill this particular provision instead of supporting the Gibbons amendment and taking it out, I think we lay to rest the last chance of this 91st Congress to bring about effective congressional reform. It may be that the other body will not act on this measure even if we do act thereon. But let us not mistake the fact that if we leave this provision within this bill—because the other body will see very

clearly that this provision does have an impact on what it may do—that we have killed any chance for effective reform this session.

If we want to make this change, we can make the change without needing to call the other body into conference at the time we adopt our own rules, and I think it is clear that when we go to adopt the rules for the 92d Congress, some such provision as this will be adopted, and I personally hope that it will be adopted. But we make a grievous mistake, my friends and my colleagues, if we do not see clearly what we are doing. Unless we support the Gibbons amendment, as I urge we do, we do grievous injury today to the chance for effective reform coming forth from the 91st Congress.

I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'HARA: On page 41, strike out line 1 through line 23 and insert the following:

"Motions in the House to Dispose of Nongermane Amendments Between the Two Houses to House or Senate Bills or Resolutions.

"SEC. 120. (a) Clause 1 of rule XX is amended by adding, after the period, the following new sentence: 'Such a motion and any other motion, rule, or order to dispose of amendments between the two Houses to any House or Senate bill or resolution other than a motion to request or agree to a conference shall require for adoption, or demand of any Member, a separate vote on each amendment to be disposed of if, originating in the House, such amendment would be subject to a point of order on a question of germaneness under clause 7 of rule XVI. Before such separate vote is taken, it shall be in order to debate such amendment for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, the amendment.'

"(b) Rule XX is amended by adding at the end thereof:

" '3. No amendment of the Senate which would be in violation of the provisions of clause 7 of rule XVI, if said amendment had been offered in the House, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.' "

Mr. O'HARA. Mr. Chairman, this amendment, in effect, substitutes majority vote for a two-thirds vote. It applies the same rules to nongermane Senate amendments to legislative bills that are followed today and have been followed for many years with respect to amendments to appropriation bills that carry legislation.

I am sure all Members recall that from time to time we have an appropriation bill conference report, on which we will agree first to the conference report and then we will also have one or more amendments in disagreement on which we will then vote as separate propositions. Usually the conferees have worked out these amendments in disagreement in a way that permits their disposition without any great controversy, but sometimes there is considerable controversy and we do have a separate vote on which a rollcall can be demanded, as on any other vote, and we have an hour of debate.

My amendment would follow that time-tested procedure for nongermane Senate amendments to the House bills, Conferees could not bring in a nongermane amendment as part of a conference report. They would have to bring it in as an amendment in disagreement with a motion to dispose of it, perhaps with an amendment to concur, to disagree, or to agree with an amendment, and then we would bebate that motion.

With respect to the kind of situation that two earlier speakers described, with respect to the situation where we do not have a conference report, but instead have a resolution from the Rules Committee, as with the 18-year-old vote on the Voting Rights Act, there we would have a separate vote if anyone desired it on the nongermane part of that combined piece of legislation.

The gentleman from Mississippi (Mr. COLMER) when he spoke, said that a majority vote was acceptable, although he favored the bill as it was, every word of it. The gentleman from New York, when he spoke, mentioned that he favored a separate House vote, but not necessarily by a two-thirds margin, in order to adopt a nongermane Senate provision.

With respect to the constitutional argument made by the gentleman from Missouri, it seems to me that we do have a chance of finally passing this legislation while at the same time upholding the dignity of the House if, instead of introducing a new concept—barring a Senate amendment that would not be germane under House rules without getting the concurrence of two thirds of the House—we simply apply to nongermane amendments from the Senate to legislative bills the same principle we have been applying for many years to legislation on appropriations. I cannot believe that the Senate would find this new or offensive or strange.

So it seems to me that this is something that liberals and conservatives—all of us—can agree on, that the House should have a separate majority vote on a nongermane Senate amendment.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. On that point, let us assume that such an amendment is before the House. Under the provisions of the gentleman's amendment, would a separate vote be secured by the request of any one Member?

Mr. O'HARA. A separate vote could be had. It would have to be had under the rules of the House, and any one Member could make a point of order that would bring about such a vote. It would not be a record vote necessarily. Record votes could be produced however in the same way they are now produced. But a separate vote could be produced by any one Member making a point of order, if the Chair had failed to put the question separately on a nongermane Senate amendment.

Mr. EVANS of Colorado. In other words, a Member wishing a separate vote would have to make a point of order against a certain provision in the bill being considered.

Mr. O'HARA. That is right.

Mr. EVANS of Colorado. On the point that it was nongermane. If upheld by the Chair, that it was nongermane, then he would have the right to request a separate vote on that matter; is that correct?

Mr. O'HARA. That is correct. It would work somewhat differently in the case of a conference report. That is why the amendment is in two parts, A and B.

If one tried to bring in a conference report that had a nongermane provision within it, rather than as a separate amendment in disagreement, I believe the entire conference report would be subject to a point of order and could be sent back to the conference. It might then come back with the nongermane provision of the conference report taken out and brought back separately as an amendment in disagreement.

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

(On request of Mr. COLMER, and by unanimous consent, Mr. O'HARA was allowed to proceed for 3 additional minutes.)

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

Mr. O'HARA. I yield to the gentleman from Mississippi.

Mr. COLMER. I should like to ask the gentleman from Michigan if it is his understanding of his amendment that the only substantial difference between the language in the bill and the language in his amendment is that the bill would require a two-thirds vote and the amendment offered by the gentleman would require only a majority vote?

Mr. O'HARA. Precisely.

Mr. COLMER. Otherwise it is substantially and basically the language in the bill?

Mr. O'HARA. Yes, with the necessary changes to conform it to the framework of the rules. But that is its meaning; there is no question about it, Mr. Chairman.

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

Mr. O'HARA. I yield to the gentleman from California.

Mr. SISK. In line with the gentleman's answer to the distinguished chairman of the Committee on Rules, the gentleman from Mississippi, I am inclined to go along and support the gentleman's amendment. I should like to say that the committee worked at considerable length, and the two-thirds vote came about as a matter of using more or less the suspension idea of 40 minutes of debate and tying it in with a two-thirds vote, on the basis that if it were a matter of substantive importance to the House then probably two-thirds would be willing to accept it anyway.

I can speak only for myself and not for the committee. I would be inclined to accept the majority vote, because at least it is a step in the right direction.

Mr. O'HARA. I thank the gentleman.

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

Mr. O'HARA. I yield to the gentleman from New York.

Mr. CELLER. I am in accord with the views just expressed by the gentleman from Mississippi and by the gentleman from California, and I certainly would accept the suggestion just made in the form of the amendment.

Mr. O'HARA. I very much appreciate the support of the gentleman from New York, the distinguished dean of the House.

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

Mr. O'HARA. I yield further to the gentleman from Mississippi.

Mr. COLMER. If the gentleman will recall, I said in my original statement that I was inclined to go along with his amendment for the majority vote, and I want to repeat that now. I believe it is an admirable way to resolve this issue, and certainly we have made progress.

Mr. O'HARA. I want to thank the gentleman.

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

Mr. O'HARA. I am glad to yield to the gentleman.

Mr. GIBBONS. As the author of the original amendment—and I do not want to get hit in the head with the entire ceiling falling on me here—I would much rather have the original amendment, but I see the magic wheels of compromise working here. I think that the gentleman came up with a good amendment and I intend to support it and I will support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. O'HARA).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments?

PARLIAMENTARY INQUIRY

Mr. BINGHAM. A parliamentary inquiry, Mr. Chairman. Is an amendment now in order to any point in title I? I have an amendment that comes on page 47.

The CHAIRMAN. The Chair would like to inform the gentleman we have not reached that point yet.

Are there additional amendments?

Mr. HALL. Mr. Chairman, a parliamentary inquiry. Have we voted on the amendment offered by the gentleman from Florida (Mr. GIBBONS)?

The CHAIRMAN. The Chair would like to inform the gentleman from Missouri that since the amendment to strike and insert of the gentleman from Michigan (Mr. O'HARA) was adopted, that means that the amendment offered by the gentleman from Florida (Mr. GIBBONS) the motion to strike, that is, falls as a result of the adoption of the first amendment.

Are there additional amendments at this time? If not, the Clerk will read.

The Clerk read as follows:

READING OF THE JOURNAL OF THE HOUSE

SEC. 121. Clause 1 of rule I of the Rules of the House of Representatives is amended—

(1) by striking out "at the last sitting, immediately call" and inserting in lieu thereof "at the last sitting and immediately call"; and

(2) by striking out ", and on the appearance of a quorum, cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same." and inserting in lieu thereof a period and the following: "On the appearance of a quorum, the Speaker, having examined the Journal of the proceedings of the last day's sitting and approved the same, shall announce to the House his approval of the Journal; whereupon, unless the Speaker, in his discretion, orders the reading of the Journal, the Journal shall be considered as read. However, it shall then be in order to offer one motion that the Journal be read and such motion is of the highest privilege and shall be determined without debate.".

Mr. SISK (during the reading of the section). Mr. Chairman, I ask unanimous consent that section 121 be considered as read, printed in the RECORD at this point, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments?

AMENDMENT OFFERED BY MR. HALL

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

The Clerk read as follows:

Amendment offered by Mr. HALL: On page 42, strike lines 1 through 20.

The CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes in support of his amendment.

Mr. HALL. Mr. Chairman, the subcommittee of our Committee on Rules feels that some delays in the past in the House as they dealt with the reading of the Journal were unnecessary. The bill as presented to us amends clause 1 of rule I to modify the right of any individual elected representative Member of the Congress to demand that the Journal of the proceedings of the last day's sitting be read in full. The bill further provides that the Speaker, the Speaker alone, as the duly elected representative, elected to this high estate by the Members hereof, shall announce his approval of the Journal and it then shall not be read unless the Speaker so orders or unless a motion is made and supported by a majority to read the Journal in full, and such motion, furthermore, will not be debatable.

I have submitted my amendment, Mr. Chairman, because I believe this does mischief to the Constitution. Certainly it does mischief to the official RECORD of the House of Representatives, our House of Representatives, and the other body.

I ask you, Mr. Chairman, how could a Member correct the Journal? What access would the individually elected Member have to the Journal if he thinks or even so much as fears an error in the recording thereof?

Second, Mr. Chairman, one never knows but there might be something of interest in the Journal, and the House of Representatives would be a better institution by again receiving this information.

Third, the provision in the bill eliminates the rights of a minority to protect itself against an oppressive and overwhelming majority. I think this is important. I believe that our Founding Fathers in their wisdom, who developed these principles that have oft been tried and found true, would approve of protecting this minority.

Finally, the proposal takes away the right and the prerogative of individually elected Members of the House of Representatives. And I ask you, Mr. Chairman, why should not a Member have the right to demand the reading of the Journal? Why should we give more power to the Speaker alone?

The new language in the bill starts "On the appearance of a quorum the Speaker shall." It is therefore mandatory—and is the Speaker to automatically cause the Clerk to have a quorum call before he announces that he has perused the Journal and found it adequate and a true report? This is the official record according to the Constitution which says that each House shall keep a Journal of its proceedings and from time to time publish the same excepting such parts as may in their judgment require secrecy.

I strongly urge this amendment and the preservation of the individual rights of the elected Members of the House.

I yield back the balance of my time.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have great respect for the gentleman from Missouri and I must say that I am somewhat sympathetic with the statements the gentleman made. However many of us have experienced the dilatory tactics that can be used in connection with this device by one single Member demanding that the Journal be read. We have had cases where that reading went on all afternoon, or as I remember it did, on one occasion.

As one who firmly believes in the rights and the protection of the minority—and I think the rules of the House go a long way in doing that, and we are still here providing for a democratic procedure and of course for a rule by the majority, because any Member who once the Speaker having examined the Journal and approved it, any Member has the right to rise and make a motion that it be read and that motion shall be of the highest privilege and shall be determined without debate. We provide again for the will of the majority to prevail. It is simply the position of the Committee on Rules that this eliminates what has been a dilatory tactic which has been used at times by one or two or three or four Members—and this is not being critical of those Members, but basically it is in the interest of taking care of the public business that the will of the majority should prevail in connection with this.

That is what the subcommittee and the full Committee on Rules recommend, and therefore, Mr. Chairman, I would oppose the amendment offered by the gentleman from Missouri (Mr. HALL).

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

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

Mr. GROSS. Mr. Chairman, I am surprised that my friend, the gentleman

from California, describes as democratic procedure what is here proposed. I quote the language, "Unless the Speaker in his discretion orders the reading of the Journal."

This is placing in the hands of one man, the Speaker—the untrammeled authority to say whether the Journal shall or shall not be read.

I am not going to repeat the arguments made by my friend, the gentleman from Missouri, but certainly this is placing altogether too much power, in the hands of one man—the Speaker of the House of Representatives.

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

Mr. GROSS. I yield to the gentleman.

Mr. SISK. Of course, I recognize that that does place a certain power in the hands of the Speaker. However, my colleague, the gentleman from Iowa, will agree that it would still give him or me or any other individual Member the right of appeal from the Speaker's ruling on the requiring of the reading of the Journal, if a majority voted to support that decision.

Mr. GROSS. Yes, and how many times in the rather lengthy service of the gentleman from California has he heard an appeal from a ruling of the Chair?

Mr. SISK. I do recall, as I remember one occasion, of an appeal from a ruling of the Chair.

Mr. GROSS. I do not recall any.

Mr. SISK. I would agree with the gentleman that it is quite a rare incident. Yet, here is a situation where if there should be need for the reading of the Journal, and I think that is the only occasion on which it should be justified, because, as the gentleman knows, it can be a very lengthy process and has generally been used, frankly, for a delaying tactic. I believe my colleague will agree with me on that.

Mr. GROSS. Let me ask the gentleman on that score—when was the last demand for the reading of the Journal? I cannot even recall that. I know there have been requests during my time here for a reading of the Journal but it has been used only rarely in the last 20 years.

Mr. SISK. I recognize that it has only occurred occasionally. However, it has occurred, as I am sure my friend remembers, and I would say probably it was 8 or 9 years ago it was used several times. Again, I am not condemning the Member who asked for it because he was doing that which he, in his conscience, believed to be in the best interest of the people he represented.

As the gentleman knows, it was used on several occasions in connection with the civil rights bill and at certain times on very controversial legislation.

Again, as I say, it can be used merely as a dilatory practice by a single Member, and that is what we preclude.

Mr. GROSS. Yes; it can be used as a dilatory tactic. There are other moves that can be made as a dilatory tactic but are not commonly used.

I would say this to the gentleman. I doubt that he here today wants to throw the baby out with the bath water in this regard. I hope the House will not place in the hands of the Speaker—and I say again—any Speaker, the discretion, as it is given to him in this case, to order the reading of the Journal.

Mr. Chairman, I trust the House will support the amendment of the gentleman from Missouri to strike out the provision from the bill that gives to the Speaker power that ought to be held by all Members of the House, especially the members of the minority.

I hope the amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. HALL).

The question was taken; and on a division (demanded by Mr. HALL) there were—ayes 12, noes 25.

So the amendment was rejected.

Mr. HALL. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

The CHAIRMAN. Are there additional amendments to section 121? If not, the Clerk will read.

The Clerk read as follows:

CLARIFICATION OF CERTAIN PROVISIONS AND ELIMINATION OF OBSOLETE LANGUAGE IN CERTAIN HOUSE RULES

SEC. 122. (a) Clause 27(a) of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"(a) The Rules of the House are the rules of its committees and subcommittes so far as applicable, except that a motion to recess from day to day is a motion of high privilege in communities and subcommittees. Any committee may adopt additional written rules not inconsistent with the Rules of the House and those additional rules shall be binding on each subcommittee of that committee. Each subcommittee of a committee is a part of that committee and is subject to the authority and direction of that committee.".

(b) Rule XII of the Rules of the House of Representatives is amended to read as follows:

"RULE XII.

"RESIDENT COMMISSIONER

"The Resident Commissioner to the United States from Puerto Rico shall be elected to serve as an additional member on the Committees on Agriculture, Armed Services, and Interior and Insular Affairs, shall possess in such committees the same powers and privileges as in the House, and may make any motion except a motion to reconsider.".

(c) Clause 3 of Rule III of the Rules of the House of Representatives is amended—

(1) by striking out "to Members and Delegates" and inserting in lieu thereof "to Members and the Resident Commissioner from Puerto Rico";

(2) by striking out "Members and officers" and inserting in lieu thereof "Members, the Resident Commissioner from Puerto Rico, and officers";

(3) by striking out "and Territory";

(4) by striking out "preserve for and deliver or mail to each Member and Delegate an extra copy, in good binding, of all documents printed by order of either House of the Congress to which he belonged;" and inserting in lieu thereof "deliver or mail to any Member or the Resident Commissioner from Puerto Rico an extra copy, in binding of good quality, of each document requested by that Member or the Resident Commissioner which has been printed, by order of either House of the Congress, in any Congress in which he served;"; and

(5) by striking out "of Members and Delegates" and inserting in lieu thereof "of Members and the Resident Commissioner from Puerto Rico".

(d) Clause 1 of Rule IV of the Rules of the House of Representatives is amended by striking out "of Members and Delegates" and inserting in lieu thereof "of Members and the Resident Commissioner from Puerto Rico".

(e)(1) Clause 2 of Rule V of the Rules of the House of Representatives is repealed.

(2) Clause 3 of Rule V of the Rules of the House of Representatives is redesignated as clause 2 of that Rule.

(f) Rule VI of the Rules of the House of Representatives is amended to read as follows:

"RULE VI.

"DUTIES OF THE POSTMASTER

"The Postmaster shall superintend the post office in the Capitol and in the respective office buildings of the House for the accommodation of Representatives, the Resident Commissioner from Puerto Rico, and officers of the House and shall be held responsible for the prompt and safe delivery of their mail.".

(g) Clause 9 of Rule XI of the Rules of the House of Representatives is amended by striking out "clause 15(d)" wherever occurring therein and inserting in lieu thereof "clause 16(d)".

(h) Clause 23 of Rule XI of the Rules of the House of Representatives is amended—

(1) by striking out "paragraph 7" and inserting in lieu thereof "clause 7"; and

(2) by striking out "paragraph 4" and inserting in lieu thereof "clause 4".

(i) Clause 25 of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"25. The Committee on House Administration shall make final report to the House in each contested-election case at such time as the committee considers practicable in that Congress to which the contestee is elected.".

(j) Clause 27(j) of Rule XI of the Rules of the House of Representatives is amended by striking out "paragraph 27 of Rule XI of the House of Representatives" and inserting in lieu thereof "this clause of this Rule".

(k) Clause 29(c) of Rule XI of the Rules of the House of Representatives is amended by striking out "maximum rate authorized by the Classification Act of 1949, as amended", wherever occurring therein, and inserting in lieu thereof "highest rate of basic pay, as in effect from time to time, of the General Schedule of section 5332(a) of title 5, United States Code".

(l) Clause 7 of Rule XXIV of the Rules of the House of Representatives is amended by striking out "paragraph 4" and inserting in lieu thereof "clause 4".

(m) Clause 2 of Rule XXXIV of the Rules of the House of Representatives is amended by striking out ", one to the International News Service, and one to the United Press Associations," and inserting in lieu thereof "and one to United Press International".

(n) Clause 2 of Rule XXXVI of the Rules of the House of Representatives is amended—

(1) by striking out "National Archives" and inserting in lieu thereof "General Services Administration"; and

(2) by striking out ", and in so transferring he may act jointly with the Secretary of the Senate." and inserting in lieu thereof a period and the following: "In making the transfer, the Clerk may act jointly with the Secretary of the Senate.".

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent that section 122 be considered as read, printed in the RECORD, and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to section 122?

AMENDMENT OFFERED BY MR. SISK

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

The Clerk read as follows:

Amendment offered by Mr. SISK: On page 46, after line 21, add the following:

"(n) Clause 3 of Rule XXXIV of the Rules of the House of Representatives is amended—

"(1) by striking out "wireless" and inserting in lieu thereof "television";

"(2) by striking out 'standing Committee of Radio Reporters' and inserting in lieu thereof 'Executive Committee of the Radio and Television Correspondents' Galleries'; and

"(3) by striking out 'Transradio Press Service' and inserting in lieu thereof 'American Broadcasting Company'."

And on page 46, line 22, strike "(n)" and insert in lieu thereof "(o)".

The CHAIRMAN. The gentleman from California (Mr. SISK) is recognized for 5 minutes in support of his amendment.

Mr. SISK. Mr. Chairman, unless there are questions, I certainly shall not take the 5 minutes. I think it is evident from the reading of the amendment that this would eliminate some obsolete language, or language that was correct many years ago but today is obsolete, and it would update the rules in connection with the television and radio sections of clause 3 of rule XXXIV. I ask for the adoption of the amendment.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CÓRDOVA

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

The Clerk read as follows:

Amendment offered by Mr. CÓRDOVA: On page 43, strike lines 10 through 19 and insert the following:

"(b) Rule XII of the Rules of the House of Representatives is amended to read as follows:

"'RULE XII.

"'Resident Commissioner

"'The Resident Commissioner to the United States from Puerto Rico shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other Members'."

Mr. CÓRDOVA. Mr. Chairman, under the existing rule and under the provisions of the bill we are considering, the Resident Commissioner enjoys the privilege of being an "additional member" of three standing committees: Agriculture, Armed Services, and Interior and Insular Affairs.

My amendment would abolish this privilege. It would provide for the election of the Resident Commissioner to standing committees in the same manner as Members of the House are elected. This would mean, in effect, that the Resident Commissioner may be fortunate to secure election to one of the three committees on which he now serves.

But my amendment would also provide that the Resident Commissioner have the same rights in committee as other members, which means, of course, that he would have the right to vote within the committee.

This proposition is not new. Back in 1841, we know that delegates voted on the business before standing committees. And because someone has suggested that it may not be constitutional for a delegate to vote in committee, I shall quote briefly from the report of the Committee on Elections regarding the qualifications of the delegates from Florida:

With the single exception of voting, the Delegate enjoys every other privilege and exercises every other right of a Representative. He can act as a member of a standing or special committee, and *vote on the business before said committee,* and he may thus exercise an important influence on those initiatory proceedings by which business is prepared for the action of the House. (Hind's Precedents, Section 1301).

It is apparent that in permitting the Delegates to vote over a century ago, this House drew a distinction between the action of the House, which can be taken only by its Members, and the steps taken in preparation for action by the House, wherein persons other than Members of the House may, and often do, play very vital roles. I submit this is a clearly valid distinction. And in support of this distinction, I take the liberty of quoting the ringing phrases of the distinguished gentleman from Missouri (Mr. BOLLING) during an earlier phase of the debate on this measure:

Only the House of Representatives, under the Constitution of the United States, can act . . . A great deal of the preliminary work of the Congress is and must be done in committee, but the committees are the creatures of the House; they are not little separate legislative bodies.

I might cite an analogy. Only the States and the District of Columbia are represented in the electoral college which chooses our President. But in the essential preliminary work of choosing the candidates of the two great parties, in the national conventions, delegates from Puerto Rico participate and vote. No one, however critical of our convention system with all its defects, has yet suggested that it is unconstitutional because of the Puerto Rican votes.

Some of you have asked me whether the right to vote in committee is worth giving up the present privilege of the Resident Commissioner of sitting on the three committees to which he is assigned.

It is true that the Resident Commissioner now has the privileges, in committee, as on the floor, to sit, to speak, and to question. Undoubtedly these are valuable privileges, just as it is a valuable privilege to be counsel to a prominent committee, and as such to sit, to question, perhaps to speak—as well as to advise the committee. But such privileges fall short of the true role of an elected representative of the people in a republican form of government.

Let us not delude ourselves. The Resident Commissioner is now an "additional member" of three great committees under rule XII precisely because he is "additional," precisely because he is not counted. You will, therefore, appreciate why the Resident Commissioner, as the elected representative of 2,700,000 citizens cannot forgo the opportunity to put to this House the question whether or not it is ready, whether or not its Members are ready, to go as far as in my judgment you are clearly empowered to go, to make the role of the Resident Commissioner in Congress more meaningful, more useful to his constituents, more in keeping with the intended nature of the position for which he is elected.

This House and its presiding officers have traditionally been liberal in dealing with the rights and privileges of delegates. For instance, in 1849, Speaker Robert C. Winthrop sustained the right of the Delegate from Wisconsin to move to suspend the rules and then to move to discharge, saying:

The Chair believes, upon the whole, that delegates from the Territories could not subserve the purposes for which they are sent here unless they have the right to make motions; and as the law does not deny them that right, the Chair is disposed to accord to them the largest liberty.

Eighty years later, the Chairman of the Whole House sustained the right of a Delegate to make a point of order, and also to object to the consideration of a bill stating:

Upon the general principles that the prohibition of one particular right permits other rights and the inclusion of one matter excludes all others, it seems to the Chair that there is no good reason for holding that the Delegates may not make a point of order, when as a matter of fact he may participate in all other parliamentary procedures.

But there is undoubtedly a specter haunting the minds of many in this Chamber as you consider my amendment: the specter of other possible Delegates. It haunts those who favor the granting of representation to other communities, some of whom have expressed to me their concern lest the broadening of the privileges of the Resident Commissioner may render more difficult their efforts to obtain representation for these other communities. And it probably haunts those who hesitate to grant representation to one or more of these communities.

I wish I could dispose of this specter by saying that Puerto Rico is different, that the Resident Commissioner represents almost 3 million people, that their situation is entirely different. But I cannot in all candor put to you distinctions in which I do not believe. What I can say, what I feel I must say to you, is that if there must be an issue as to whether or not representation in Congress should be granted to any one community of American citizens which may be seeking it, let us narrow it to the question: representation or no representation? If this body is to grant representation in Congress to any community of American citizens, it should do so, and I am confident it will do so generously and effectively or not at all; it should either withhold representation if it is not warranted, or grant it as completely as it may; that is, short of a vote on the floor. That is in essence what this amendment proposes to you with regard to Puerto Rico and its elected representative here: it asks you to grant him as full a measure of representation as it is within your power to grant. It is this proposition that I ask you to support.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do this with some hesitancy. I have great respect for the distinguished Resident Commissioner of Puerto Rico (Mr. CÓRDOVA). He has discussed his amendment with me, and I might say he appeared before our committee and made a very fine statement in discussing the points which he has raised here on the floor.

Your subcommittee, when studying this matter after having heard the distinguished Resident Commissioner, had some studies made by the Library of Congress. We have looked into it to some extent.

I am not here proposing to make any great constitutional argument. In view of the fact that the committees are merely the creatures of the House and are an extension of the House, and in view of the fact that—as I understand by the statement of the distinguished Resident Commissioner—there is no question he could not vote on the floor of the House, as a constitutional matter, therefore it certainly is my position, and I know that of many scholars, then to vote in a committee would raise the same constitutional question.

I might say that, as the distinguished Resident Commissioner has said, there was a time back some 100 or 150 years ago when certain Delegates were given temporarily some additional responsibilities. As late as 1932 the chairman of the House Committee on Indian Affairs appointed a subcommittee to examine and report on this very question, because it was a question at that time. Actually, that information is available. You will note from the report that it deals primarily with statutes and rules relating to the status of a Delegate. However, it does state that a Delegate from a territory is not a Member of the House of Representatives. Nowhere in the Constitution nor in the statutes can the intention be found to clothe the Delegate with legislative power. Manifestly the House could not elect to one of its standing committees a person who is not a Member of the House.

As I say, basically the information furnished to your subcommittee by the Library of Congress and other sources of authority indicate that the practice of Delegates in the House of Representatives has been more or less a courtesy extended by the House to representatives of territories or areas other than States but certainly not having the right to vote. I think in granting the right to vote in a committee, if we consider the weight of that vote, the weight of that vote could be substantially greater on an issue pending in a committee or a subcommittee than it would be on the House floor. So if we project the theory of what is involved, it is the opinion certainly of our subcommittee and, as I say, of this Member particularly that it would not be in order.

In spite of my sympathy and my great respect for the Resident Commissioner, the committee would oppose the amendment as it has been offered.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I earnestly hope that this amendment will be adopted.

I have great respect for the gentleman from California who is the distinguished floor manager of this bill. However, what the gentleman has just told the committee is that there is some possible objection to the constitutionality of this amendment. Now it is very clear, as the Resident Commissioner has said, that a constitutional amendment would be required to give the Resident Commissioner a vote in the Committee of the Whole or the full House. This amendment proposes only to give the Commissioner a vote on standing committees. The committees of the House of Representatives are creatures of the House of Representatives. They can be extinguished at will and created at will. It does not even require concurrence of the other body when we take such an action. Depriving members of the right to vote in a committee is fully within the power of the House, by abolishing the committee. Giving them additional rights to vote is within the power of the House by creating a new committee. The point is that the constitutional issue does not touch preliminary advisory votes which is what standing committee votes are, but only the votes which are cast in the Committee of the Whole or the full House. These votes can be cast only by Members of Congress. So nothing that the Resident Commissioner could do in a committee vote could become a final decision unless a majority of the elected Members of Congress supported his position. However, in the standing committee itself I think that the Member from Puerto Rico should have a vote. I think the House has the constitutional authority to give him a vote in that limited area. Certainly there are the most powerful reasons for this. There are 2.7 million American citizens in Puerto Rico. They serve in the Armed Forces and have done so with great distinction. They have bled and died for this country. I think we have an obligation to give them the maximum feasible representation in the Congress of the United States and in the House of Representatives.

I think the overwhelming opinion of the American people would support going as far as we constitutionally can go to give them the fullest representation we can. We should not quibble about vague matters in dispute. We clearly cannot give him a vote in the House; and the fact that he does not have a vote in the House means that anything he does in committee has to be endorsed by the Members of Congress, or it does not become law. But we ought to give him the opportunity to operate with as much authority as he can for the interest of the 2.7 million constituents he represents—which is more than five times the number of people that any one of us has the honor to represent.

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

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

Mr. SISK. Mr. Chairman, of course my good friend the gentleman from Washington, for whom I have great respect, is making a great plea for statehood for Puerto Rico—and I also have great respect for the people of Puerto Rico. On the other hand they enjoy through the Commonwealth status some substantial advantages over statehood and if we are faced with the issue of statehood, that is another issue.

Mr. FOLEY. I must respectfully disagree. If it was a question of statehood then there would not be a question of a right for the Resident Commissioner to vote in a committee, because he would then have the right to vote on the floor of the House as a full Member, and there would be five other colleagues from Puerto Rico along with him who would vote with him, and there would be two Senators in the other body as well. But this amendment is a minimum sort of thing where the representative from Puerto Rico would have the opportunity to vote in the standing committees, subject in any event to the affirmation or disaffirmation of the Members of the House.

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

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

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding, and I think the gentleman from Washington is making a very sound legal argument, and I think that he is assisting the position of the gentleman from Puerto Rico, the Resident Commissioner. It is true that if he acts on matters in committee that he is not going to be able to make any laws through a vote on the floor of the House with respect to such legislation, one way or another, but he is going to be a representative of the people of Puerto Rico, and that it seems to me is what we want the Resident Commissioner of Puerto Rico to be able to do.

American citizens of Puerto Rico deserve increased attention by the Congress of the United States. The spokesman of these more than 2 million American citizens is their Resident Commissioner—JORGE L. CÓRDOVA, who serves—without a vote—on the Agriculture, Armed Services, and Interior and Insular Affairs Committees of this House.

Mr. CÓRDOVA is present on the floor of the House more than most other Members, and he is a most articulate and knowledgeable representative of the people whom he represents.

May I add that the other committee members and, indeed, all Members of the Congress could benefit from this expanded role which it appears clearly the Congress can take legally and constitutionally.

Many of our citizens from Puerto Rico are of the impression that they are being discriminated against with regard to educational, employment, and housing opportunities. Such charges must be investigated and the basis for the charges must be removed. At the same time, our Puerto Rican compatriots must be given the fullest possible opportunity for expression within the limits of their Commonwealth status. It is my earnest hope that statehood for Puerto Rico will come soon—to the end that full voting representation in this House and in the other body may be enjoyed.

Meanwhile, both encouragement and fairness can be provided through adoption of the amendment offered by the gentleman from Puerto Rico (Mr. CÓRDOVA).

In recent conversations with a group of my constituents who have moved recently to Lake County, Ill., from Puerto Rico, I am informed that there are now more than 10,000 local residents who have migrated from their Puerto Rican birthplace. These citizens who are now residents of the 12th Congressional District of Illinois enjoy voting and other rights equal with those of other American citizens—and it is my intention to see that those rights are protected and—to the extent possible—that the aspirations of these and other Spanish-speaking Americans are fulfilled.

Today, we are concerned solely with the issue of the right of the Puerto Rican Resident Commissioner to vote as a member of the standing committees upon which he serves. I support the amendment which carries out this purpose, and I urge wholehearted passage of the amendment offered by the gentleman from Puerto Rico (Mr. CÓRDOVA).

Mr. FOLEY. Mr. Chairman, I thank the gentleman. I think that when we give the Resident Commissioner a vote in standing committees that we are just permitting him to make recommendations, but that on the final result he is not permitted to vote on the floor to either accept or reject such matters. What we will be doing is to permit him to better serve his almost 3 million constituents, who are American citizens as fully as you or I. These citizens have only one voice in their behalf in the House of Representatives. There is none in the other body.

The one voice is the Resident Commissioner. In the present case the incumbent is so distinguished and able, so wise and diligent a legislator, that we would all be richer for his more effective service. His personal capacities recommend this amendment to us. Justice to the interests of our fellow citizens of Puerto Rico requires this amendment. I am confident we shall approve it.

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

Mr. FOLEY. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise to support my colleague. On the island of Puerto Rico we find that there is a great deal of feeling on the university campuses and among the intelligentsia that the Puerto Ricans are not represented adequately in the Congress. To the extent that we can constitutionally give them a more meaningful participation and a stronger voice and a better forum through which to represent their interests through the office of the Resident Commissioner, I think is highly desirable.

Mr. GUDE. Mr. Chairman, I rise in support of the amendment of the gentleman from Puerto Rico, granting the Resident Commissioner the right to vote in committee and providing for his appointment to committees by regular House procedures.

Mr. Chairman, I do not believe that we can really give any valid reason or explanation for denying the Resident Commissioner the right to vote in standing committees. His constituents lose the benefits of effective representation at a very critical stage of the legislative process, and we all honestly know that our committees lose the benefits of his accumulated expertise and judgment as would be delivered through his vote. I believe conscientious Commissioners like the gentleman now serving from Puerto Rico should not be relegated to a solely advisory role. He can contribute much to the legislative process through this change and we should have the benefit of it.

Mr. Chairman, I also see no reason to appoint the Commissioner to a limited number of committees. To the extent possible, existing procedures permit us in Congress to opt for committee appointments that reflect our own interests and those of our constituents as we see them. Part of the job of a Representative is making those choices.

Mr. Chairman, I urge the adoption of the amendment.

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

Mr. GUDE. I yield to the gentleman.

Mr. BINGHAM. Mr. Chairman, I would like to join in support of this amendment. It seems to me it is a minimum step to be taken and one that I see no difficulty with, insofar as the constitutional issue is concerned.

As has been pointed out by my colleague, the gentleman from New York (Mr. SCHEUER), it is important for us to try to allay the feelings of the people on the island of Puerto Rico that the Congress is not concerned with their welfare and has not taken all steps to give them the representation that they might have within the framework of the Constitution.

This amendment will be a small step in the right direction.

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

Mr. GUDE. I yield to the gentleman.

Mr. LOWENSTEIN. Mr. Chairman, I appreciate the courtesy of the gentleman. I am happy to add my voice to those that have already been raised in support of this amendment.

I simply want to say that I think it would be useful to adopt this amendment. It would be a step in the right direction.

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

Mr. GUDE. I yield to the gentleman.

Mr. BIAGGI. Mr. Chairman, I rise in support of this amendment to grant equal committee assignment and voting privileges to the Resident Commissioner from Puerto Rico. As the only representative of some 3 million American citizens living in that island territory, it is imperative that this body recognize his position and endow him with the powers of the vote in committee.

But there is more involved here than just granting the right to vote to one of our colleagues who occupies a unique position. For it is just this unique position that affords this body the opportunity to strengthen the relationship between the 50 States and the territory of Puerto Rico. Moreover—and more importantly—it enables the citizens of the States to enhance their image of fairness and justice in the eyes of their fellow Americans of Spanish ancestry living in Puerto Rico.

Besides the equities involved—and there are many—I must say in all candor, that I have a personal interest in this matter. I have family living in Puerto Rico. My son-in-law, a native, tells me that he and my daughter are deeply interested in the activities here in Congress and their island's relationship with the United States. They feel very strongly that there must be a strengthening of the bonds among those Americans living in the States and those living in Puerto Rico.

I would also point out that the many Americans who came from Puerto Rico and are now living in the United States together with those still living on the island form a group of people whose rich history, customs, and philosophy of life have much to offer to the potpourri of American culture and spirit. Having this tradition more strongly represented in this body is essential for developing the equal rights of citizenship for Puerto Rican Americans everywhere.

As the gentleman from Puerto Rico (Mr. CÓRDOVA) so aptly pointed out, this amendment would not set new precedent. Certainly the experience of granting the right to vote in committee to previous Resident Commissioners who served in the early years of the Republic has proven fruitful and successful.

Further, if the people of Puerto Rico should decide in the future to become a State of the Union, this first step toward complete representation would make such a transition smoother.

During this session of Congress there has been considerable discussion about the right to vote. Perhaps not since the Constitutional Convention in the post-revolutionary period has so much concern been accorded the question of the enfranchisement of various groups. We have considered only recently in this body the right to vote for 18-, 19-, and 20-year-olds. We have also questioned the continued disenfranchisement of the residents of the District of Columbia.

Now that we have the opportunity to provide the residents of Puerto Rico with more substantial powers in Congress through granting the right of committee vote to their elected representative we should not hesitate to do so.

I therefore strongly urge my colleagues to vote "yes" on this important amendment and grant that right to vote to the Resident Commissioner from Puerto Rico—a right we can no longer justify denying him.

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

Mr. GUDE. I yield to the gentleman.

Mr. KOCH. Mr. Chairman, I rise in support of the amendment. The citizens of Puerto Rico, also citizens of the United States, now numbering 2.7 million, de-

serve greater representation than is presently accorded them in this House.

It would take a constitutional amendment to grant the Resident Commissioner of Puerto Rico who sits in this House as a nonvoting Delegate the right to vote with the other Members of this House on legislation coming before it. However, the amendment now offered by the Resident Commissioner to the bill before us seeks simply to permit the Resident Commissioner to vote in those standing committees of this House to which he may be assigned. This House has the power under its rules to do that and it should.

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

Mr. Chairman, apparently this has become Puerto Rican popularity day. That is fine and dandy. I think we all have great admiration for the people of Puerto Rico. As I have already indicated, I certainly have great respect for the Resident Commissioner from Puerto Rico. But I am just wondering if some of you have looked down the road and think of what you are doing if you approve of this amendment.

I wanted to ask the gentleman from Washington if he wishes to or will accept him as part of a quorum—in other words will he be counted for the purpose of a quorum in committee. I do not see the gentleman on the floor at the moment. But I am curious to know if it would be interpreted that he would be entitled to vote in the Committee of the Whole House on the State of the Union, as the Committee of the Whole certainly is separate and apart from the House and in the same sense is a creature of the House in the same sense that a committee is a creature of the House.

Again, I certainly have no objections to the distinguished gentleman, Mr. Córdova, voting—but I am very much concerned about the precedents that you are setting because what we are talking about may well apply to Delegates who come to the House in the future. I know, for example, that we have a number of islands out in the trust territories, and I have had the opportunity to visit them and I have great respect for those people, the Micronesians, the Samoans, and the Guamanians and many others, who some day may want Delegate representation.

All that I am asking you to do is to take a look at what you propose to do.

Let me say, I could almost say that this would be representation without taxation. You know we hear about taxation without representation, but if you know anything about the Commonwealth status, the Puerto Ricans do not pay income taxes to the U.S. Government but rather to their own Commonwealth.

I would only ask that the Members look very carefully at what the long-range results of this could be. I have very grave questions about the constitutionality of it. But I think there are even far more serious implications than merely that of constitutionality.

Mr. CAREY. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I do not claim any special knowledge with regard to this amendment or as to the rules of this distinguished body.

But I served for 4 years as chairman of the Subcommittee on Territory and Insular Affairs. I have looked with great concern at our territorial questions in our committee with the help of the gentleman from Washington (Mr. FOLEY) and Members on the other side, the gentleman from Maryland (Mr. MORTON), and we have worked earnestly to find and develop ways in which we can consolidate and join and associate ourselves more closely politically with these noncontiguous areas of the United States. It is most important that we do so.

The Commonwealth of Puerto Rico is, indeed, a showcase of democracy sitting in the Caribbean in contradistinction to the Castro dictatorship which sits alongside of it.

It is most important that we take every step possible to extend to the people of the Commonwealth of Puerto Rico every possible means of voicing democratically their concern in the Congress of the United States.

The gentleman from California, for whom I have great respect, has said that this is turning into Puerto Rican Popularity Day. Maybe it is time that we had a Puerto Rican Popularity Day in this committee. Popular government is in the Commonwealth of Puerto Rico but it is not represented well enough in terms of voting here in this body. This small gesture, of great importance to the distinguished Resident Commissioner, to allow him to vote in the committee on which I serve, would be a great benefit to that committee. I would like to have him vote. He is most diligent in his attendance at the committee meetings. He might help us to get a quorum on occasion when we cannot get one from our stateside colleagues.

Maybe it is going in the direction of statehood, but is there any doubt that the Commonwealth of Puerto Rico will be our 51st State, or some such State, in this Union? The President has called for a presidential vote for the people of Puerto Rico. What better way to go in that direction than to give to the Resident Commissioner in the committee in which he sits, with his voice, his experience, his expertise, and his dedication to his people, our neighbors and our fellow we can do so here in the House on the citizens, the right to cast his vote in committee? If we want to eradicate that vote, floor. We can reject the committee recommendation if a measure carries by his vote, or we can note his vote in approbation of a measure which affects the Commonwealth of Puerto Rico and our country and take note on that in our deliberations. But we would have his guidance as we do not have it now.

I think it is a fine amendment. I stand in favor of Puerto Rican Popularity Day because whenever we have a popularity day for any group of American citizens, I want to stand up and be counted on that occasion.

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

Mr. CAREY. I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Chairman, I would like to be in the parade of the Spanish-speaking people in my community. Sunday night I am going to a banquet, and I would appreciate the House adopting this amendment so I can tell them that I have supported the amendment.

Mr. CAREY. We are seeking to adopt an amendment offered by the minority, where the gentleman from Puerto Rico sits. I would like to yield to him at this time.

Mr. CÓRDOVA. I appreciate the gentleman yielding.

Mr. Chairman, I wish to clarify a question brought up by the gentleman from California with relation to participation by the Resident Commissioner of the Commonwealth of Puerto Rico in the Committee of the Whole House on the State of the Union. The amendment which I have offered refers expressly to the standing committees. I believe the Committee of the Whole House is not a standing committee.

Mr. CAREY. I thank the gentleman for making that clear. When the gentleman from California (Mr. SISK), for whom I have the highest regard, said that the amendment would have an effect on the trust territories, I wish to point out that the people in the trust territories are not citizens or nationals of the United States. They are in a trusteeship under the United Nations. The amendment would have no effect on the people of those territories. If we seek to bring the people of the territories and the Commonwealth closer to the American framework and democracy, what better step could we take at this time to indicate our attitude?

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

The CHAIRMAN. The gentlewoman from New York is recognized for 5 minutes.

Mrs. CHISHOLM. Mr. Chairman, a previous speaker referred to the fact that this might be Puerto Rican Popularity Day. The fact is that we have to consider what we are dealing with, with whom we are dealing, and what has been the concern of these people for such a long time. Their concern has been over the fact that they have not had any real voice in their own destiny. The fact is that they do have a Resident Commissioner, but a Resident Commissioner in name only, one who possesses a paper title without any real rights or obligations.

Many of us feel that we appease certain groups so long as we engage in a few kindly acts. The fact is: there is no real voice; there is no real representation for these 2 million people who have very specific problems and very specific concerns. It seems to me that the minimal thing that we can do is to permit the Resident Commissioner to at least have a vote or some voice in the standing committees.

Recently it was interesting to note in Puerto Rico that certain persons of Puerto Rican heritage from the mainland were not able to communicate certain real daily concerns to our Government because of the fact that they lacked this real voice with authority in Wash-

ington. The Resident Commissioner knows better than any of the rest of us in this body, regardless of how well our intentions may be, the problems of his people, the unique concerns of his people and, if nothing else since he lives here and is a part of the House of Representatives, we should give the Resident Commissioner authority commensurate with the fact that he is the only voice for 2 million Puerto Rican citizens.

Let us take away a paper title and afford him the opportunity to voice the aspirations and hopes of his people. They are Americans.

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

Mr. Chairman, I rise in support of this amendment. I remember some years ago when I led the fight on this floor to bring about Commonwealth status to the Commonwealth of Puerto Rico.

I would say further, if this is popularity day, I want to join in this, because I have known these fine people for many years and I have worked on this floor to bring about the status I have referred to.

I should like to remind my friends who suggested something about the other islands, that the French islands have full representation in the French Parliament. Their delegates are elected from the islands and go to the French Parliament and there have full representation in that Parliament. I would hope the day would come when the Puerto Ricans may have full representation in this House of Representatives. I recognize the gentleman who now is the Resident Commissioner is a very able legislator, one of great experience, and I am sure everybody on both sides of the aisle is proud to have the gentleman here and is proud to serve with him.

Mr. Chairman, I would hope the amendment offered by the gentleman carries.

Mr. GROSS. Mr. Chairman, if the gentleman will yield, how about Puerto Rican representation in the other body, the U.S. Senate?

Mr. BOW. I would be in favor of that.

Mr. GROSS. All right. Let us get them in.

Mr. BOW. If the gentleman would help us get that, I would be delighted if we would get representation in the other body for Puerto Rico, but I cannot see how we can say that because the other body has not granted representation, we in this body should withdraw or withhold representation from these fine people.

Mr. GROSS. All I want is for the other body to have all the good things of life.

Mr. BOW. I think they have them pretty well.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Puerto Rico.

May I note, Mr. Chairman, that while I support the amendment offered by the gentleman from Puerto Rico, it seems to me if this debate goes on much longer, the illogic of most of his supporters might start to work against the gentleman's amendment, with all due respect to the gentlemen who have arisen to support the amendment, this is not going to solve the problems of unrest. On the island of Puerto Rico, it is not going to cool off the radicals on their campuses, and it is not something the people in the streets of Puerto Rico are aware of.

The gentleman made a calm and reasoned argument in support of his amendment.

Mr. Chairman, I would also add that voting in the committee would be an expansion of the Commissioner's voice. Puerto Rico ought to be a State, and all those who loudly support this amendment ought to be in the vanguard of support for statehood for Puerto Rico. The point is the people of Puerto Rico have refused to accept the status of statehood. Perhaps if we expand the voice and influence and the vote of the Resident Commissioner, it will inspire Puerto Rico to accept statehood, and accept the responsibilities.

They have a unique situation. They have all the rights of American citizenship without all the responsibilities, because of this unique Commonwealth status.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the Resident Commissioner from Puerto Rico.

Mr. Speaker, I would like to express my support for the amendment before us which would give the Resident Commissioner from Puerto Rico the right to vote in committee as well as granting him the same privileges as his colleagues in committee. This is an important and necessary change in the rules of this body. I think we would be hard pressed to find and explain the basis for the present rule which states that Delegates have no broader rights or privileges in committee than on the floor of the House. This rule clearly denies 2,700,000 American citizens a voice in affairs directly affecting their welfare and security. To continue to deny the duly elected representative of the people of Puerto Rico any meaningful participation in the activities of this body is neither in keeping with the truest democratic principles nor serves the best interests of the Nation. If we are serious in our intentions to reform the rules and practices under which we serve the people, we must give this long overdue measure our fullest support.

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

Mr. MILLER of Ohio. I yield to the gentleman, the Resident Commissioner of Puerto Rico.

Mr. CÓRDOVA. Mr. Chairman, I want to reply briefly to the observations of my good friend, the gentleman from Illinois, who suggested that Puerto Rico is not bearing the responsibilities of statehood. I wish to point out that Puerto Rico is bearing the responsibilities of American citizenship in every way except in bearing the full burden of direct taxation, but we bear what I consider to be a much more important burden than the burden of taxation, in the burden of the blood tax which we pay gladly to the Nation and have been paying gladly in all of the wars of this century.

Besides that, we help to subsidize as no other section of the United States helps to subsidize the American merchant marine, because we carry all our freight on American bottoms and thus pay a higher cost than we would if we were not a part of the United States. That is a very real burden involving billions of dollars of goods moving to and fro from Puerto Rico.

I could go on reciting numerous burdens. We buy so much from the States that we help to pay indirectly the taxes of many taxpayers, because we are a part of the United States and practically must buy from the United States.

We are happy to do it. We are happy to bear all these burdens. We are not yet decided, unfortunately—I am, but many of my people are not—about statehood. But we are bearing a very great share of the burdens of the American citizens.

The CHAIRMAN. The question is on the amendment offered by the Resident Commissioner from Puerto Rico (Mr. CÓRDOVA).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to section 122?

AMENDMENT OFFERED BY MR. GROSS

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

The Clerk read as follows:

Amendment offered by Mr. GROSS: On page 45, line 10, after the word "mail" insert the following: "at rates the taxpayers can afford to pay."

Mr. GROSS. Mr. Chairman, in case any Member is interested, the word "mail" in this case is spelled m-a-i-l.

This would make the provision with respect to the Postmaster of the House of Representatives read as follows:

The Postmaster shall superintend the post office in the Capitol and in the respective office buildings of the House for the accommodation of Representatives, the Resident Commissioner from Puerto Rico, and officers of the House and shall be responsible for the prompt and safe delivery of their mail at rates the taxpayers can afford to pay.

That is my amendment to this ridiculous bill. I am just trying to help out and get the taxpayers into this act somewhere along the line.

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

Mr. GROSS. I am glad to yield to the gentleman from Califorina.

Mr. SISK. Is the gentleman offering an amendment? I am sorry; I did not quite get clear what the gentleman was doing.

Mr. GROSS. I am offering an amendment to page 45, line 10, to say that the Postmaster of the House of Representatives shall be held responsible for the prompt and safe delivery of mail at rates the taxpayers can afford to pay. That is all.

Mr. Chairman, I yield back the remainder of my time.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

The amendment was rejected.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The Speaker resumed the chair.

The SPEAKER. The Chair will receive a message.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

The SPEAKER. The Committee will resume its sitting.

LEGISLATIVE REORGANIZATION ACT OF 1970

The Committee resumed its sitting.

The CHAIRMAN. Are there additional amendments to be proposed to section 122?

Mr. SISK. Mr. Chairman, I rise to make a unanimous consent request. I ask unanimous consent to return to page 39 of H.R. 17654, immediately below line 4, for the purpose of offering a perfecting amendment to the amendment offered by the gentleman from Texas (Mr. WHITE), which was adopted back quite some time ago. I submit the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GROSS. Reserving the right to object, Mr. Chairman, let us hear the amendment read.

Mr. SISK. I would be very happy to do so, Mr. Chairman.

The CHAIRMAN. Unless there is objection, the Clerk will read the amendment.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. SISK:

In paragraph (b) of clause 2 of Rule XV of the Rules of the House as contained in the amendment offered by Mr. White to page 39, immediately below line 4, insert "which is privileged and shall be decided without debate," immediately after the words "a motion".

The CHAIRMAN. Is there objection to the unanimous consent request of the gentleman from California?

Mr. GROSS. Still reserving the right to object, Mr. Chairman, will the gentleman from California relate that to the language of the White amendment so that we may know precisely what is being proposed here?

Mr. SISK. Will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman.

Mr. SISK. I will be happy to do so, because I did propose to explain this.

This is a perfecting amendment. At the time the gentleman from Texas offered his amendment, the gentleman will remember now, some month ago or more, we had agreed the next day that the amendment did need certain perfecting language. Unfortunately, there has been some time that has elapsed since then. The language of the gentleman from Texas (Mr. WHITE) dealt with the conduct of calls of the House, as the gentleman remembers. I could read the entire page, if the gentleman would like to have me do so. However, there is a sentence down near the center of the amendment where this statement is made:

When a quorum has been recorded, which in the Committee of the Whole House shall be 100 members, the Clerk shall advise the Speaker or the Chairman of this fact, after which it shall be in order to entertain a motion to dispense with further proceedings under the call.

That is the way the present language reads. With the perfecting amendment which we are offering it will read thus:

When a quorum has been recorded, which in the Committee of the Whole House shall be 100 members, the Clerk shall advise the Speaker or the Chairman of this fact, after which it shall be in order to entertain a motion which is privileged and shall be decided without debate to dispense with further proceedings under the call.

This is in order to avoid delaying tactics or a debate in connection with whether a quorum has actually been present.

In line with our staff's thinking, checking with the existing rules, we have written this language to make it conform. It is simply a conforming amendment.

I might say it has been discussed with the gentleman from Texas (Mr. WHITE) and others interested, and it was acceptable. It is a technical amendment pure and simple.

Mr. GROSS. It seems to me it is a substantive amendment. Does the gentleman realize that he is going to have this House of Representatives so efficient that neither the Members nor the public is going to recognize it for what it is?

Mr. SISK. Will the gentleman yield further?

Mr. GROSS. Yes.

Mr. SISK. Of course, the House, as I recall it, by almost a unanimous vote, adopted the amendment offered by the gentleman from Texas, which, of course, it is hoped would speed up the creation of a quorum and the procedure of calling the roll.

Mr. GROSS. I again ask what it is proposed to do with all of the time this bill is supposed to save? Tell me, what is proposed to be done with all the time that will allegedly be saved by outlawing all dilatory tactics, if you can call them that?

Mr. SISK. Well, of course, if the gentleman will yield further, I think it could be put to good use for the benefit of the public.

Mr. GROSS. I am glad the gentleman said it could be and not would be.

Mr. SISK. Let us hope that it will be. I recognize of course that it is up to us as representatives of the people to do a better job and have a more efficient use of our time. Of course unfortunately we have many times not been very efficient. Of course many of the provisions of this bill it is hoped will improve the procedures and will move things along faster and will make it possible for us to do a better job. I recognize that it is still up to us to do the job and that we cannot expect the new language we may write to remove all of the problems or to be any panacea, but that if we put them into practice it does seem that we can more efficiently and more effectively legislate.

Mr. GROSS. Well, I do not know. This congressional face-lifting job that is being put on here now is a little hard to assimilate at the speed at which we are going. I think we ought to do this all over again. Therefore, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. BENNETT

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

The Clerk read as follows:

Amendment offered by Mr. BENNETT: On page 47, immediately following line 5, insert the following new section:

"CLOSING OF THE DOORS IN CALLS OF THE HOUSE

"Clause 2 of rule XV of the Rules of the House of Representatives is amended by striking out ", and in all calls of the House the doors shall be closed, the names of the Members shall be called by the Clerk, and the absentees noted;" and inserting in lieu thereof ", and in all calls of the House the names of the Members shall be called by the Clerk, and the absentees noted, but the doors shall not be closed except when so ordered by the Speaker;"."

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

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

Mr. SISK. Mr. Chairman, insofar as this member of the committee is concerned, I see nothing wrong with the amendment offered by the gentleman from Florida and therefore as far as I personally am concerned I do not intend to oppose the amendment.

Mr. SMITH of California. Mr. Chairman, will the gentleman yield?

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

Mr. SMITH of California. Mr. Chairman, I have tried to get this done for the last year and a half but the Committee on Rules just sort of laughed at me. I think that opening these two side doors will make it easier to get into the Chamber.

Mr. BENNETT. This is only for the purpose of expediting attendance on the floor.

Mr. SMITH of California. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. BENNETT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

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

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 47, insert the following new section after line 5:

"SEC. —. Section 3 of Rule X of the Rules of the House of Representatives is amended by deleting the semicolon and inserting in lieu thereof the following: ", *Provided however*, That no Member of any committee shall be eligible to be elected chairman who has served four or more terms in that office,

except by a two-thirds record vote of the House to suspend the rules, and provided further that no Member shall be eligible to be elected chairman of a standing committee who in the same Congress has been elected chairman of another standing committee or is chairman of the Joint Committee on Atomic Energy or the chairman of the Joint Economic Committee.' "

Mr. BINGHAM. Mr. Chairman, this amendment which would limit the term of committee chairmen to a period of 8 years, unless the House voted by two-thirds to suspend the rules, really should be adopted overwhelmingly by this body. According to my calculation, 394 Members out of the 435 stand to gain by it. But something tells me that it will not receive that number of votes.

In putting this amendment forward now, I have no great expectation that it will be adopted by this Committee of the Whole. I say that particularly in light of the fact that from the earlier proceedings on this bill it was quite clear that the Members were not yet willing to make any substantial change in the seniority rule. But I put the amendment forward in the hope that it will be studied and considered by the Members, with the possibility of future action.

Mr. Chairman, what I am suggesting is based on a very simple principle. It is the principle of rotation of office, of spreading the responsibility around a little bit. We have a constitutional amendment which limits the President of the United States to two full terms. Something similar, it seems to me, could be applied reasonably to the important positions in this House that are held by the chairmen of the committees.

We often hear, particularly freshmen Members and junior Members, that all are equal in this body. Well, some are more equal than others. There is no doubt about it. The prerogatives and privileges and powers that go with the chairmanship in the great committees are very considerable indeed and most of us in the House will not have a chance ever to exercise them.

So I suggest that my proposal is something that might be considered and studied as one method of dividing up the responsibilities in this House a little more equally than they are today.

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

Mr. BINGHAM. I yield to my friend, the gentleman from Pennsylvania.

Mr. DENT. Would it not be a lot simpler just to follow the thing all the way through and say that Members of the House cannot serve for more than 8 years in order that they would then share in the responsibility by spreading it around—but instead to have a limit the same as the President and to say that instead of depriving a Member of the chairmanship at a time in his life when he probably knows more about the subject than most of the people on the committee do? That is the way it has happened in my lifetime of 38 years in legislative bodies.

If you want to do it all the way, just make it for a period of 8 years as the term of office and give the Member some kind of juicy pension like the President gets.

I think most Members would be willing to quit then, if everybody could serve 8 years and once in a while get to be chairman.

Mr. BINGHAM. This proposal might be simpler, I will say to my friend, but I would not be in favor of it.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I actually feel that this possibly would be subject to a point of order but I do not make a point of order since I understand it was not felt that it would be sustained.

But I do oppose the amendment.

Mr. Chairman, I think this matter has been pretty substantially discussed. I do not feel it would be helpful to the pending bill and, therefore, ask for the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 47, after line 5 and before line 6, insert the following new section:

"TAKING OF WRITTEN NOTES BY VISITORS TO THE HOUSE GALLERIES

"SEC. —. Rule XXXIII of the Rules of the House of Representatives is amended—

"(1) by inserting '1.' immediately before the words 'The Speaker shall set aside a portion of the west gallery'; and

"(2) by adding at the end thereof the following new clause:

"'2. Visitors to the House galleries may be permitted to consult legislative materials and take written notes under such regulations as the Speaker may from time to time prescribe.' "

Mr. HECHLER of West Virginia. Mr. Chairman, this is a very simple and noncontroversial amendment.

I do not plan to take the full 5 minutes although I will certainly entertain any questions that may be asked about the amendment and its implications.

Mr. Chairman, many of our constituents in the galleries have been really puzzled as to why certain restrictive rules are enforced in such a way that they cannot intelligently follow the debate. Some visitors bring a copy of the bill that is being debated, and have tried to open it and look at the bill while listening to the debate. If they try to follow the bill, they are reprimanded because such a practice is against the rules.

It is also against the rules to consult a copy of the pictorial directory of the House of Representatives simply to check the pictures of the Members and identify who is addressing the House, or who is seated at the committee table, or the identification of other Members of the House.

I would like to stress that most of our public visitors who try to take a conscientious, courteous, and attentive interest in the debate in the House of Representatives, are rather rudely and abrutply called to attention by a tap on the shoulder and a voice saying, "You are violating the rules by looking at a copy of the bill or by jotting down the action of the House as it occurs."

My amendment simply provides that the House rules allow the consultation of legislative materials and the taking of written notes "under such regulations as the Speaker may from time to time prescribe." This means that if there is any abuse of this rule, if we find that there are people who might be reading or consulting newspapers or something like that, this certainly could be covered by regulations that the Speaker may provide and prescribe.

I have consulted with the Speaker, the Doorkeeper, and have asked the Legislative Reference Service to examine the history of and precedents for the rule which prohibits notetaking and reading in the public gallery. It is generally concluded that the concept of the visitor's pass originated following the 1954 shooting from the gallery by the Puerto Rican nationalists. Yet all sources agree that the rule against writing and notetaking predates the issuance of the first visitor's pass, even though nobody has been able to come up with any written rule with these provisions prior to their appearance on the visitor's pass. There is nothing specific in the House rules to prevent reading and writing in the public galleries, yet the notations on the visitor's pass have the force of House rules.

It is most difficult for visitors to understand the logic behind this rule, particularly when visitors are genuinely interested in following the debates more intelligently by consulting the bill being debated. I believe we owe it to the public to enable the public to understand the legislative process more clearly.

We also owe it to the public to allow those who wish to follow the proceedings to follow them intelligently through being able to jot down a note or two occasionally, or to consult the pictorial directory so that they can better understand what is going on.

I would like to point out that several Members have expressed their support for this amendment, including the following: COUGHLIN, FINDLEY, KOCH, RIEGLE, ROONEY, RYAN, EDWARDS, and PODELL.

I would be glad to entertain any questions that members of the Committee have concerning the amendment.

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

Mr. HECHLER of West Virginia. I yield to the gentleman from New Jersey.

Mr. PATTEN. I object to the gentleman's saying that our help rudely calls attention to the rule. I think the help is usually very kind and very considerate.

Mr. HECHLER of West Virginia. I appreciate the gentleman's correction and certainly concur with his comment. To the average visitor who is a law-abiding citizen it comes as a somewhat abrupt surprise to be informed he is violating the rules. So I will substitute the word "abruptly." Sometimes it is very disconcerting and embarrassing when you are

trying your best to express your respect for the institution, only to learn to your chagrin that you are in violation of the rules. I recall the first time I visited the Gallery of the House of Representatives. I studied up for weeks on a bill that the House was going to debate and, believe me, it was a rather abrupt shock to have someone come up and say, "You have violated the rules of this body." That was before the time of the visitor's pass.

This occurs many times, and I think it would be in keeping with the spirit of the House of Representatives and our guests in the Gallery if we did allow them to consult legislative materials, and to take written notes under such regulations as the Speaker may from time to time prescribe. I urge adoption of the pending amendment.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California is recognized.

Mr. SISK. Mr. Chairman, I have great sympathy for my good friend from West Virginia. I recognize that we all make mistakes occasionally, and that sometimes it can be a bit embarrassing. However, as I am sure my colleague knows, the passes which are issued to visitors in the Gallery outline very specifically what the rules are on the back of the card, and it is very quickly read.

Let me say that your Committee on Legislative Reorganization has attempted to deal with this subject, and we will be considering that later on in the week. That has to do, of course, with the proposal of calling for possible encasement of the Gallery, soundproofing of the Galleries, the consideration of making mikes available or commentators who will explain and attempt to give visitors to the Gallery a great deal more information. Many of us recognize some of the problems, as I am sure my colleague from West Virginia will agree.

A visitor comes into the Gallery unaware of what is going on or what is under consideration, so the procedure is a bit confusing. We hear comments about it. We are attempting, as I have said, to meet that problem. Primarily it is one for the convenience of our visitors. It would seem to me that what the gentleman proposes would be most difficult to police. I can appreciate the problems the Speaker might have or the Chairman of the Committee of the Whole House on the State of the Union, as the case might be, in attempting to determine what might be read or be subject matter allowed. I think there would be confusion, noise, and other things that simply would not be productive. Therefore, with hesitation I would have to oppose the gentleman's amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. SISK. I am glad to yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. If the committee bill, as written is adopted, with the provision for encasing the galleries and providing a commentator for the galleries, would that not remove much of the argument against this proposal? My amendment could very easily be incorporated within the system which is already outlined in part 7 of the committee bill, which provides for "modernization of the galleries."

Mr. SISK. I think the gentleman is right, of course. The bill provides for authorizing the Speaker to set up a study group to investigate and proceed with enclosing the galleries. Of course, once they were soundproofed, if that was the determination, there is no question but what then many things could be permitted in the gallery in connection with colloquies or running commentaries, which would not interrupt the procedure of the House.

Mr. HECHLER of West Virginia. If the gentleman will yield, page 138 of the bill already provides that the study commission "shall provide for the enclosure of the galleries with soundproof and transparent coverage." I would hope that section of the bill would simplify the adding of the amendment which I have suggested.

Mr. SISK. It is in the bill at the present time, as I say, and we would hope that it would be maintained, but, Mr. Chairman, I urge defeat of the pending amendment.

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

Mr. Chairman, I would like to address a question to the Chairman of the Committee, the distinguished gentleman from California. Do I understand correctly that the pending amendment would provide for enclosing the galleries in some kind of protective screening, or is this something merely to be studied?

Mr. SISK. If the gentleman will yield, the language will be found in a later title, which we hope will be coming up within the next couple of days. It does provide for the Speaker to appoint a committee to make a study and make recommendations, if they see fit, to enclose the galleries.

Mr. STRATTON. If that were going to go through, I would not want to let it pass without saying that whatever may be the perils of serving in this body, I think to shut off the public with some kind of bulletproof glass or screen would be damaging to our democracy and our accessibility to the people. I think these are some of the very few perils that Members of the House would have to endure in these difficult days.

Mr. SISK. If the gentleman will yield further, I would like to comment in connection with that. I would hope that prior to the matter being brought up, which, as I say, is in a later title, if the gentleman will review the record of the committee, he will find there is nothing in there and no particular concern of our committee with respect to any bulletproof glass, making this a fort. This is not the idea. This is for the enhancement of the knowledge of our visitors, and there are a number of ideas as to mikes and a running commentary which could be provided that would definitely enhance the ability of the public to know what is going on. So I would hope the gentleman will read the hearings and the report before we come to that portion. We are not talking about protecting the Members against anything.

Mr. STRATTON. I have not read the entire report, but I do believe that if we were to enclose the entire gallery, that would be a grave mistake. Maybe we could enclose a portion of it, but I do not believe we should have one kind of action going on down here and a separate commentary on it going on in the gallery. I think that would be a mistake.

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

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

Mr. JACOBS. Mr. Chairman, instead of having people here in the galleries hearing mushy sounds and sometimes unable to distinguish the words being spoken, we would have a situation where the visitors would be brought much closer to their Government with the amplifying system in the gallery.

As I understand it, the narration provision would be a periodic narration, simply to say who is participating and what the bill is. It will be just a few seconds at intervals. Far from separating the people from their Government, it would be bringing the people much closer, in my estimation.

Mr. STRATTON. The gentleman is entitled to his view. I just want to be sure my own views on this important issue are in the RECORD.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II—FISCAL CONTROLS

Mr. SISK. Mr. Chairman, the committee has asked me to make a unanimous-consent request that in connection with title II the title be read by parts rather than by sections. Therefore, I ask unanimous consent that that be the procedure in connection with title II.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read part 1 of title II.

The Clerk read as follows:

PART 1—BUDGETARY AND FISCAL INFORMATION AND DATA

BUDGETARY AND FISCAL DATA PROCESSING SYSTEM

SEC. 201. The Secretary of the Treasury and the Director of the Bureau of the Budget, in cooperation with the Comptroller of the United States, shall develop, establish, and maintain, insofar as practicable, for use by all Federal agencies, a standardized information and data processing system for budgetary and fiscal data.

BUDGET STANDARD CLASSIFICATIONS

SEC. 202. (a) The Secretary of the Treasury and the Director of the Bureau of the Budget, in cooperation with the Comptroller General, shall develop, establish, and maintain standard classifications of programs, activities, receipts, and expenditures of Federal agencies in order—

(1) to meet the needs of the various branches of the Government; and

(2) to facilitate the development, establishment, and maintenance of the data processing system under section 201 through the utilization of modern automatic data processing techniques.

The initial classifications under this subsection shall be established on or before December 31, 1971.

(b) The Secretary of the Treasury and the Director of the Bureau of the Budget shall submit a report to the Senate and the House of Representatives on or before September 1 of each year, commencing with 1971, with respect to the performance during the preceding fiscal year of the functions and duties imposed on them by section 201 and subsection (a) of this section. The reports made under this subsection in 1971 and 1972 shall set forth the progress achieved in the development of classifications under subsection (a) of this section. The reports made in years thereafter shall include information with respect to changes in, and additions to, classifications previously established. Each such report shall include such comments of the Comptroller General as he deems necessary or advisable.

AVAILABILITY TO CONGRESS OF BUDGETARY, FISCAL, AND RELATED DATA

SEC. 203. Upon request of any committee of either House, or of any joint committee of the two Houses, the Secretary of the Treasury and the Director of the Bureau of the Budget shall—

(1) furnish to such committee or joint committee information as to the location and nature of data available in the various Federal agencies with respect to programs, activities, receipts, and expenditures of such agencies; and

(2) to the extent feasible, prepare for such committee or joint committee summary tables of such data.

ASSISTANCE TO CONGRESS BY GENERAL ACCOUNTING OFFICE

SEC. 204. (a) The Comptroller General shall review and analyze the results of Government programs and activities carried on under existing law, including the making of cost benefit studies, when ordered by either House of Congress, or upon his own initiative, or when requested by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, having jurisdiction over such programs and activities.

(b) The Comptroller General shall have available in the General Accounting Office employees who are expert in analyzing and conducting cost benefit studies of Government programs. Upon request of any committee of either House or any joint committee of the two Houses, the Comptroller General shall assist such committee or joint committee, or the staff of such committee or joint committee—

(1) in analyzing cost benefit studies furnished by any Federal agency to such committee or joint committee; or

(2) in conducting cost benefit studies of programs under the jurisdiction of such committee or joint committee.

POWER AND DUTIES OF COMPTROLLER GENERAL IN CONNECTION WITH BUDGETARY, FISCAL, AND RELATED MATTERS

SEC. 205. (a) The Comptroller General shall establish within the General Accounting Office such office or division, or such offices or divisions, as he considers necessary to carry out the functions and duties imposed on him by the provisions of this title.

(b) The Comptroller General shall include in his annual report to the Congress information with respect to the performance of the functions and duties imposed on him by the provisions of this title.

PRESERVATION OF EXISTING AUTHORITIES AND DUTIES UNDER BUDGET AND ACCOUNTING AND OTHER STATUTES

SEC. 206. Nothing contained in this Act shall be construed as impairing any authority or responsibility of the Secretary of the Treasury, the Director of the Bureau of the Budget, and the Comptroller General of the United States under the Budget and Accounting Act, 1921, as amended, and the Budget and Accounting Procedures Act of 1950, as amended, or any other statutes.

DEFINITION

SEC. 207. As used in this title, the term "Federal agency" means any department, agency, wholly owned Government corporation, establishment, or instrumentality of the Government of the United States or the government of the District of Columbia.

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent that part 1 of title II 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 California?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: On page 47, line 11, strike "Bureau of the" and insert "Office of Management and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 47, line 19, strike the words "Bureau of the" and insert the words "Office of Management and".

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, what is being proposed here? Will the gentleman explain the reference in the committee amendments to an Office of Management and Budget?

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

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

Mr. SISK. That is a matter which the House acted on earlier, in a reorganization plan. The gentleman, as I recall, was involved in the debate having to do with that reorganization plan some time ago. It abolished the Budget Bureau, or transferred it to a new Office of Management and Budget. It is now called the Office of Management and Budget rather than the Bureau of the Budget. All we are doing here, in view of the fact that the original bill was written prior to adoption of the reorganization plan, is making the bill conform.

Mr. GROSS. I am glad to have the gentleman refresh my memory. Now tell me which one of the many budgets are we dealing with? There are a half dozen budgets floating around. Which one will they deal with?

Mr. SISK. It will be the Federal budget.

Mr. GROSS. Will this be the comprehensive, the unified, the administrative, or the regular budget?

Mr. SISK. Here we are dealing with budgetary and fiscal information and data and the budgetary and fiscal data-processing system. We are not dealing with budget concepts, which is what I believe the gentleman is referring to.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 48, line 8, strike the words "Bureau of the" and insert the words "Office of Management and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 48, line 25, strike the words "Bureau of the" and insert the words "Office of Management and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 50, line 23, strike the words "Bureau of the" and insert the words "Office of Management and".

The committee amendment was agreed to.

The CHAIRMAN. Are there any additional amendments to part 1? If not, the Clerk will read.

The Clerk read as follows:

PART 2—THE BUDGET

SUPPLEMENTAL BUDGET INFORMATION

SEC. 221. (a) Section 201(a) of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 11), is amended—

(1) by striking out the word "and" at the end of subparagraph (10);

(2) by striking out the period at the end of subparagraph (11) and inserting in lieu of the period a semicolon and the word "and"; and

(3) by adding immediately below subparagraph (11) the following new subparagraph:

"(12) with respect to each proposal in the budget for new or additional legislation which would create or expand any function, activity, or authority, in addition to those functions, activities, and authorities then existing or as then being administered and operated, a tabulation showing—

"(A) the amount proposed in the Budget for appropriation and for expenditure in the ensuing fiscal year on account of such proposal; and

"(B) the estimated appropriation required on account of such proposal in each of the four fiscal years, immediately following that ensuing fiscal year, during which such proposal is to be in effect.".

(b) Section 201 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 11), is amended by striking out the terminated and obsolete subsections (b), (c), (d), (e), and (f) and inserting in lieu thereof the following new subsections:

"(b) The Secretary of the Treasury and the Director of the Bureau of the Budget jointly shall transmit to the Congress, on or before June 1 of each year, beginning with 1972, a supplemental summary of the Budget for the ensuing fiscal year transmitted to the Congress by the President under subsection (a) of this section. Such supplemental summary—

"(1) shall reflect with respect to that ensuing fiscal year—

"(A) all substantial alterations in or reappraisals of estimates of expenditures and receipts, and

"(B) all substantial obligations imposed on that Budget after its transmission to the Congress;

"(2) shall contain current information with respect to those matters covered by subparagraph (8) and clauses (2) and (3) of subparagraph (9) of subsection (a) of this section; and

"(3) shall contain such additional information, in summary form, as the Secretary and the Director consider necessary or advisable to provide the Congress with a complete and current summary of information with respect to that Budget and the then currently estimated functions, obligations, requirements, and financial condition of the Government for that ensuing fiscal year.

"(c) The President shall transmit to the Congress, on or before June 1 of each year, beginning with 1972, in such form and detail as he may determine—

"(1) summaries of estimated expenditures, for the first four fiscal years following the ensuing fiscal year for which the Budget was transmitted to the Congress by the President under subsection (a) of this section, which will be required under continuing programs which have a legal commitment for future years or are considered mandatory under existing law; and

"(2) summaries of estimated expenditures, in fiscal years following such ensuing fiscal year, of balances carried over from such ensuing fiscal year.".

Mr. SISK (during the reading of the section). Mr. Chairman, I ask unanimous consent that part 2 of this title be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SISK. Mr. Chairman, I submit two technical amendments.

Mr. PICKLE. Mr Chairman, reserving the right to object, what page of the measure would this next part you ask unanimous consent to dispense with the reading of deal with?

Mr SISK. If I have the floor, it starts on page 51, line 9.

Mr. PICKLE. Down to?

Mr. SISK. And it goes through line 2 on page 54.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 51, line 21, strike out the word "budget" and insert the word "Budget".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 52, line 14, strike the words "Bureau of the" and insert the words "Office of Management and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 52, line 17, strike the word "budget" and insert the word "Budget"

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MAHON

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

The Clerk read as follows:

Amendment offered by Mr. MAHON: On page 52, lines 13 through 15, strike out "The Secretary of the Treasury and the Director of the Office of Management and Budget jointly" and insert in lieu thereof "The President" and on page 53, in lines 8 and 9 strike out "the Secretary and the Director shall consider necessary" and insert in lieu thereof "the President considers necessary".

Mr. MAHON. Mr. Chairman, the sole purpose of this amendment is to preserve the principle that the budget is the President's budget, not the budget of any subordinate department or official of the executive branch. This principle has been in the law for 50 years.

Under the 1920 law, only the President can submit budget estimates and recommendations to Congress. Only the President can submit amendments and supplements and revisions to his annual budget.

The pending section of the bill calls for a so-called midsession updating of the annual budget submitted by the President at the beginning of the session. As the section is now written, the updating would be done or would be transmitted by the Secretary of the Treasury and the Director of the Office of Management and Budget, not by the President.

I very much doubt the wisdom of imposing a statute on subordinate officials, the duty of officially revising estimates of their superior, the President, This would do violence to the longstanding principle that the budget is the President's budget, and moreover, could prove embarrassing to these subordinate officials.

I would like to yield to the gentleman from California (Mr. SISK) for his comment as to this matter.

Mr. SISK. Mr. Chairman, I thank the gentleman for yielding. Let me say that I see no basis for objection to the change. This, of course, as I am sure the distinguished gentleman from Texas knows, deals with a supplementary budget updating coming down later, following the regular submission at the outset of the session. And, of course, it would not be expected that the President personally would come down.

The committee at the time this was under discussion actually made it a burden on the Secretary of the Treasury and the Director of the Office of Management and Budget. But on the other hand I certainly have no objection, and I do not understand that the committee would have objection. However, I would turn to the gentleman from California (Mr. SMITH) for his answer on that.

Mr. MAHON. I would say that in submitting the budget or any amendments to the budget or revisions in the budget outlook, it would seem that the President himself and not a subordinate officer should be the one to submit the information to Congress.

Mr. SMITH of California. Mr. Chairman, will the gentleman yield?

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

Mr. SMITH of California. Mr. Chairman, we discussed this I know at some time, but I would like to be sure that I myself am clear as to what the gentleman has in mind. Now, at the first of the year the President submits the budget; does he not?

Mr. MAHON. That is right.

Mr. SMITH of California. He personally does it?

Mr. MAHON. He personally does it.

Mr. SMITH of California. Now you have up above that on line 15 that the Secretary of the Treasury and the Director of the Office of Management and Budget shall transmit to the Congress. Does not the President then transmit that rather than these people, this supplemental information regarding the budget? What is the real purpose in that?

Mr. MAHON. The only purpose of my amendment is that since the President himself transmitted the original annual budget at the beginning of the session, then if the regular budget is to be amended or updated it should not be amended or updated by a subordinate official such as the Secretary of the Treasury or the Director of the Office of Management and Budget, but by the President himself.

As I say, it is a rather technical matter, but it seems to me to be important.

Mr. SMITH of California. Is it going to be necessary for the President himself to actually submit it, or is it just going to be transmitted, or how would we do it?

Mr. MAHON. The way he does it now. Under present law, only the President may amend his own budget. What I am saying is that with respect to the submission of the updating of the budget not later than June 1, the President, not a subordinate, should be the one to submit the updating to the Congress.

Mr. SMITH of California. What happens not later than June 1 of each year when they transmit such information to the Congress, do they now do that? Is that not new?

Mr. MAHON. We do not have that now, that is an innovation proposed in the pending bill.

Mr. SMITH of California. As I understand it, the committee put this in with the thought in mind that the Members would be able to get additional information by June 1 of each year as to what has happened or is happening to the budget during that period of time.

Mr. MAHON. That is correct, and the President would submit this updating with the authority of his office.

Mr. SMITH of California. But these people, the Secretary of the Treasury and the Director of the Office of Management and Budget, they are the ones that would be coming down here transmitting this and answering questions.

Mr. MAHON. Yes; I assume so, just as they now do when the President sends us his original budget early in the session.

Mr. SMITH of California. I do not want to get it to the place where we are going to have the President up here and have two whacks at him on the budget.

Mr. MAHON. I do not think there is any real difference between the gentleman from California and myself. The Secretary and the Director of the Office of Management and Budget do capable work, they draw up all of these documents, but they do so as representatives

of the President. But it is the President's budget, and it is the President's supplement to the budget, although the President never comes down and defends his own budget other than in connection with the State of the Union message when he often makes references to it.

So, there would not be any change from the system we now use. I would say that, in my judgment, the additional information sought to be elicited by this so-called midsession updating will be helpful by keeping the Congress informed as to significant changes in the overall budgetary outlook and situation generally.

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

Mr. SMITH of California. Mr. Chairman, I ask unnanimous consent that the gentleman from Texas may proceed for 5 additional minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. SMITH of California. Your amendment is going to change line 13 to eliminate, "The Secretary of the Treasury and the Director of the Office of Management and Budget" and put "President" in there instead of those people; is that correct?

Mr. MAHON. That is right.

Mr. SMITH of California. What is this going to do when the budget revisions are transmitted down here on or before June 1?

Mr. MAHON. The President can send up a message transmitting it.

Mr. SMITH of California. Is he going to send Secretary Kennedy or how is it going to work?

Mr. MAHON. Just like it is done all the time. I do not happen to have one of his budget transmissions available at the moment, but budget transmissions—amendments and supplements to the original budget—always come from the President.

Mr. SMITH of California. We do not have supplemental transmissions or summaries now?

Mr. MAHON. Yes, we do. We have supplemental transmissions all the time. We had one yesterday. I would add that of course, we do not now have this so-called midsession budget updating sent down to us, because it is not yet called for by law.

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

Mr. MAHON. I am glad to yield to the gentleman.

Mr. GERALD R. FORD. It seems to me, we are trying to equate the original submission of the budget which a President sends up in January with a supplemental summary of the budget. It seems to me they are two basically different documents. The budget is that document from which the Congress operates in its consideration of the financial plan by the President.

I doubt if one could argue that a supplemental summary has the same status that the original budget document has. Therefore, it seems to me the original budget document which is the financial plan for the Government, as sent by the Chief Executive, is of a higher level and it should come from the President. Whereas, a budget supplementary summary could very properly come from the Secretary of the Treasury and the Director of the Office of Management and Budget. I think you can differentiate between the two, as the committee has recommended here.

Mr. MAHON. You could differentiate between the two, but the President submits his budget in January and the President submits amendments to the budget as the year proceeds. This midyear updating would be a submission encompassing all agencies of the Government, the whole of the budget. It would seem to me to be fundamentally unsound to undertake to delegate the updating function to subordinate officials. I just feel that the proper procedure is to keep the responsibility with the President. It would have the President sending to the Speaker and to the Vice President budget submissions of all kinds. That has been traditional in the past and I think we should keep it that way. This is not a matter of reform, but it is a matter of carrying on our consistent procedures of the past.

Mr. Chairman, I ask for a favorable vote on this amendment.

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

Mr. Chairman, I do not desire to oppose the amendment offered by the gentleman from Texas, but I still think there is some confusion or misunderstanding of what the committee sought to do here. What the language of section 221(b) seeks to do is to enforce the requirement that the President shall inform the Congress in January of his budget and of appropriations and expenditures for the upcoming year and estimates of amounts for the ensuing 4 fiscal years.

On or before June 1, the committee then requires that the Secretary of the Treasury and the Director of the Office of Management and Budget shall send the Congress up-to-date figures on the budget for the ensuing fiscal year, giving us information and commentary on what has occurred in the ensuing some 4 or 5 or 6 months.

Of course, technically the President is the head of the executive bureau of Government, and, I suppose, the term "President" could be used without necessarily changing the intent of the language.

But it certainly was my understanding, at the time the committee considered it, that in the area where we spoke of the Secretary of the Treasury and of the Director of the Office of Management and Budget, that we were actually seeking their personal appearance and their estimates after having gone through some 4 or 5 months of the fiscal year.

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

Mr. SISK. I am glad to yield to the gentleman.

Mr. MAHON. On page 53, beginning at line 14, we get the President back into the picture. Beginning on line 14 we say:

The President shall transmit to the Congress, on or before June 1 of each year, beginning with 1972, in such form and detail as he may determine—

Certain submissions he must make.

In January he submits his budget, traditionally. The committee bill proposes he submit a midyear report by June 1. In January he tells us he wants a certain amount of funds for expenditure. He estimates the expenditures and the revenues. Let us say that he estimates a $200 billion expenditure in January. Maybe in his midyear report, with the additional information which has become available, he finds conditions and the outlook have changed, causing him to change his estimate of expenditures for the fiscal year. Or, changing the revenue projections. That is very normal. It is inevitable. It always happens.

The President submits a budget of, say, $200 billion expenditures for the fiscal year in January. At that point the Congress and the public in general have the authoritative financial plan for the Federal Government. It is the President's budget. If then the President decides that circumstances require him to adjust his budget, it seems to me that the President should in his midyear report submit a change in the overall expenditure estimates. Nobody should be in a position to speak for the President in regard to such a fundamental reestimate of what may happen to expenditures of the Federal Government in a given fiscal year. It is the President's budget to begin with, and it requires the weight and authority of the Office of the President to give full legitimacy and credibility to changes in that budget.

Mr. SISK. If I might comment to the gentleman, it is my understanding that what the committee sought to do here was, in the first place to require the President to submit his initial budget and later to submit his supplementary budget. In addition to that, in this area that we are talking about, the Secretary of the Treasury and the Director of the Office of Management would be further required to make information available to the Congress on or before June 1 of each year. The theory is that they would submit to the Congress updated figures on the budget for the ensuing year. These figures shall be supplemental to the President's budget message in January and must contain substantial alterations in and new appraisals or estimates of expenditures, receipts, and so forth. So that was the reason why in one instance it says the President shall submit his budget, as he shall, of course, in January, and later on he shall submit a supplemental budget.

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

(On request of Mr. MAHON, and by unanimous consent, Mr. SISK was allowed to proceed for 3 additional minutes.)

Mr. SISK. Mr. Chairman, I appreciate the request of the gentleman from Texas. Again, I do not find myself in substantial disagreement at all with what the gentleman has in mind. I have the feeling that the intent of the committee in connection with the responsibility of the officials concerned here in giving informa-

tion to the Congress is possibly being misunderstood. Whereas the President, as a matter of requirement, must submit both the initial budget and the supplementary budget, the additional requirement for the Secretary of the Treasury and the Director of the Office of Management is for further information to the Congress and supplementary to the President's submission.

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

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

Mr. MAHON. Mr. Chairman, in previous administrations, both Democratic and Republican, there has at times been a general hesitancy to release midyear budget readings, because too often they would show that the estimates in January were in error. I think the committee has done a great service requiring such a supplemental report. But that supplemental report should be transmitted to the Speaker under the authority of the President himself, because it is going to change the President's initial budget estimates of January. The transmittal message would say that the President's January estimate of expenditures and receipts are hereby modified as follows. It seems to me the President ought to carry out this function be he a Democrat or Republican, and not the Secretary of the Treasury or the Director of the Office of Management and Budget. I think the message would have more consistency and more validity coming from the President. This information which Members of Congress will quote and which will be used by the financial community of the Nation should be sent under the authority of the President and not somebody else.

Mr. SISK. Mr. Chairman, I have no objection to the amendment. I just want to make clear what we are doing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas, Mr. MAHON.

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PICKLE

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

The Clerk read as follows:

Amendment offered by Mr. PICKLE: On page 54, immediately below line 2, insert the following new section:

"CHANGE OF FISCAL YEAR

"SEC. 222. (a) Section 201 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 11), is further amended by adding at the end thereof the following new subsection:

"'(d) The fiscal year of the Treasury of the United States in all matters of accounts, receipts, expenditures, estimates, and appropriations shall commence on October 1 of each year.'.

"(b) Section 237 of the Revised Statutes of the United States (31 U.S.C. 1020) is repealed.

"(c) Notwithstanding any provision to the contrary in title V of this Act, the changes in existing law made by subsections (a) and (b) of this section shall take effect on October 1, 1973.

"(d) The fiscal year beginning July 1, 1972, shall end at the close of September 30, 1973. Notwithstanding any provision to the contrary in title V of this Act, the provisions of this subsection shall become effective on the date of enactment of this Act."

Mr. PICKLE. Mr. Chairman, this amendment would change the fiscal year from July 30 to September 30, and the new fiscal year then would start on October 1.

It has become apparent, I think, to every Member of the House that we have not been able to get authorizations and appropriations out by June 30, or at least to have them acted on. As a practical matter, we have not done this in years. So we must admit that the system under which we operate now is not working well or at least it could and should be able to work better. We simply cannot meet after the budget has been submitted, and wait for the authorization to be made, and then see action on the floor by June 30. For the last 2 or 3 years at least, we have had almost a chaotic situation. I would venture to say in the fiscal years 1968 and 1969 that we had only one or two of the appropriation bills finished by June 30.

If we are not getting action by that time, then it would seem to me something must give. We ought to find a better way to do business than we are doing at this point. I suggest that we change the fiscal year to September 30. If we did that and if we later got a recommendation that said the authorizations must be in by June 30 or earlier, then I think we could see a time specific to accomplish our task. We cannot do it now. We are not doing it. There is no chance under present operations to see any basic improvement.

So it seems to me we must have our fiscal year changed from our present date of June 30 to September 30, or possibly to the calendar year basis.

It was my understanding that the subcommittee had recommended in its original bill to change to the calendar year, and because there was some objection from other Members—I suppose some in respect to appropriation committee—for some reason they backed off and said, "We will not push it at this particular time."

I believe there are certain advantages to the calendar year proposal. Perhaps we must accept the fact that we cannot get our job done in the fiscal year, and we have to wait to the end of the calendar year to actually finish our work.

If we do change to a calendar year, that means we will be in session 12 months out of the year, and we will hear the Christmas bells on the Capitol steps every year while we are working on appropriation bills.

I would be agreeable to a calendar year in preference to what we have now, but it seems to me that hitting a middle ground of September 30 is a good compromise. I, therefore, urge this body to give serious consideration to changing the fiscal year to September 30.

The rest of the language of the bill, Mr. Chairman, simply gives us time to make the changeover. I understand the Bureau of the Budget has said if the fiscal year is to be changed they would need considerable time to adjust to it. The amendment I offer gives us 2½ to 3 years, actually, to make this kind of a changeover.

If any Member of the House believes we are doing our business properly now, and that we can get our appropriation bills out by the 30th, I should like to hear from him. I do not believe a Member can stand and say we are doing our job and will be done by this date.

If this is so, why do we not try to use some practical sense and say that we will change the fiscal year? If we do not do this, then we are going to be operating by continuing resolutions, supplementals and/or continuing resolutions. Perhaps that is what we are doing now. If that is the system Members want, then vote this down and keep doing business as usual.

I believe there is a better way to do it. The best way is to change the fiscal year to September 30. I, therefore, ask the committee to give a favorable vote on this amendment.

I have talked with Members of the Appropriations Committee. I understand there is general sympathy with the approach, that we need to make a change. I believe there is a stronger sympathy, however, that some want to drag this thing out a little further and see if the problem will not somehow improve. It has been getting worse in the past 25 years, and we ought to make a change.

Mr. CORMAN. Mr. Chairman, I rise in opposition to changing our fiscal year from the end of June to the end of September. I agree with the gentleman who offered the amendment that we can never anticipate legislating on the present-day budgets and concluding our work in an orderly fashion by June 30. I suggest we would have great difficulty doing it by September 30.

I supported the original proposal in the Rules Committee to go to the calendar year, and had anticipated making that motion. However, in view of the complexity of this change and in view of the necessity to work very closely with the chairman of the Appropriations Committee and the chairmen of the various authorizing committees and in view of the obvious necessity for having some timetable for getting the authorization work done prior to the appropriation work being concluded, I suggest that we defeat this amendment. We anticipate coming back here early in the next Congress with a carefully worked out plan which I hope will have the support of the chairman of the Appropriations Committee and chairmen of the authorizing committees, to go to a calendar year basis.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I thank the gentleman for yielding and I want to associate myself with his remarks.

I am one of those prepared to join with the gentleman from California in supporting an amendment to change the fiscal year. Since then, however, I have had some serious reservations about it. It is a very difficult thing to do.

I believe the amendment offered by

the gentleman from Texas ought to be defeated, and I join the gentleman from California in hoping we can solve this problem.

Mr. CORMAN. I thank the gentleman.

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

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

Mr. PICKLE. I have introduced legislation to change the fiscal year for a number of years now, as many Members of the House have.

So far as I know, no consideration has ever been given to those measures. I assume they have been referred to the Committee on Government Operations, but wherever they have been referred to they have been swallowed up. Now, do we have any assurance that the Committee on Government Operations will give any consideration to changing the fiscal year? There has not been a tractor built in the United States large enough yet to move it 1 inch so far. What assurance do we have to think that some action can be given to it by merely tossing off the idea that we must consider it later? We do not have a more serious problem confronting us. I am surprised that there is not more support for this.

Mr. CORMAN. I do not know, and I have no commitment from the members of the committee. I have discussed it with members. I will have to say that it is my feeling after getting the sentiment as best I could the chances of getting the calendar year idea adopted at this time are very poor. Our chances might be increased particularly if the Committee on Appropriations chairman gave careful thought to it and we convinced him that some careful scheduling should be had on the part of the authorizing committees. Then he might have a more realistic assurance and his committee would have more ample time to act expeditiously if the authorizing bills were adopted, therefore, doing away with the necessity of his asking for waivers of points of order on so many of his bills, since his committee works even more vigorously than the authorizing committees.

Mr. PICKLE. I see the chairman of the Committee on Appropriations on the floor. If the gentleman will yield further, I hope he will address himself to this problem. I want to make it plain in offering my amendment that it is not offered as a criticism of the Committee on Appropriations. It is something all of us in the entire Congress must shoulder. We are tossing it off our backs here and saying that there might be a better time to discuss it later. I hope that the chairman of the committee can express himself on this matter.

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

(By unanimous consent, at the request of Mr. MAHON, Mr. CORMAN was allowed to proceed for 3 additional minutes.)

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

Mr. CORMAN. I am pleased to yield to the chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Chairman, the matter of changing the Federal fiscal year is a matter of very great importance. It took more than 100 years for practically all of the States to come into agreement on a common fiscal year with the Federal Government. All of the States now have June 30 as the end of the fiscal year with the exception of three. Before we undertake to change that fiscal year, we need to go into this question very exhaustively.

What would happen, in my judgment, if we changed the fiscal year without taking other remedial action is that we would not be completing most of our work until the last several weeks of the session. We would, I am fearful, have more and more delays, and too often we perhaps would not finish our work in the calendar year and thus would have to go over into the following year in order to finalize necessary legislation. Our interest is in trying to move the entire legislative program as rapidly as we reasonably can and as early as we can in the session. I would say that until substantial changes are made otherwise in our legislative system or habits, we certainly should not consider changing the fiscal year as the entire remedy to our problem of timeliness. I would think that that would be the proper stance to take at the moment if the Congress can work its will otherwise at a later date.

I thank the gentleman for yielding.

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

Mr. CORMAN. I am happy to yield to the gentleman.

Mr. GROSS. I simply rise to commiserate with the gentleman from Texas (Mr. PICKEL) in his inability to move his bill or his amendment. I have had H.R. 144 kicking around here for years. That provides for a balanced budget with payments on the Federal debt. When the gentleman can find a block and tackle big enough to move his bill, however, I would like him to show it to me. I would like to use it.

Mr. CORMAN. I might say that if I thought we were going to pass H.R. 144 before we passed the change in the fiscal year, I would not be opposed to the gentleman from Texas at the moment.

Mr. Chairman, I yield back the balance of my time.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will only take a moment. The committee as I am sure my good friend, the gentleman from Texas knows, gave a great deal of thought and study to this subject. We had hearings, in fact, we had extensive hearings and we had the Bureau of the Budget here before us, and I might say they supported a change to a calendar year and the committee at one time put together language and we did have language tentatively as a part of this bill to change to the calendar year from the present fiscal year. It is a rather substantial task. It is rather complex. The Bureau of the Budget recommended it be done over a period of 3 years. The fact is that the committee after considerable discussion, and discussion with the distinguished gentleman from Texas (Mr. MAHON), the chairman of the Committee on Appropriations, decided to leave the matter out of this bill at the present time.

The gentleman from California (Mr. HOLIFIELD) has a great deal of interest in this question and there is presently in the Committee on Government Operations a bill pending calling for a change in the fiscal year to the calendar year, also some proposals that would limit the legislative committees and require that in connection with ongoing authorizations that they must have those authorizations in by I believe one calls for June 30 and another possibly August 1. And it was the desire of our subcommittee that this matter be at least for the present left with the Committee on Government Operations in the hope that it might be a matter that would be acted on in that committee.

Therefore, Mr. Chairman, I ask for the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PART 3—UTILIZATION OF REPORTS AND EMPLOYEES OF GENERAL ACCOUNTING OFFICE

ASSISTANCE BY GENERAL ACCOUNTING OFFICE TO CONGRESSIONAL COMMITTEES IN CONNECTION WITH PROPOSED LEGISLATION AND COMMITTEE REVIEW OF FEDERAL PROGRAMS AND ACTIVITIES

SEC. 231. At the request of any committee of the House or Senate, or of any joint committee of the two Houses, the Comptroller General shall explain to, and discuss with, the committee or joint committee making the request, or the staff of such committee or joint committee, any report made by the General Accounting Office which would assist such committee in connection with—

(1) its consideration of proposed legislation, including requests for appropriations, or

(2) its review of any program, or of any activity of any Federal agency, which is within the jurisdiction of such committee or joint committee.

DELIVERY BY GENERAL ACCOUNTING OFFICE TO CONGRESSIONAL COMMITTEES OF REPORTS TO CONGRESS

SEC. 232. Whenever the General Accounting Office submits any reports to the Congress, the Comptroller General shall deliver copies of such report to—

(1) the Committees on Appropriations of the House and Senate,

(2) the Committees on Government Operations of the House and Senate, and

(3) any other committee of the House or Senate, or any joint committee of the two Houses, which has requested information on any program or part thereof, or any activity of any Federal agency, which is the subject, in whole or in part, of such report.

FURNISHING TO CONGRESSIONAL COMMITTEES BY GENERAL ACCOUNTING OFFICE OF ITS REPORTS GENERALLY

SEC. 233. At the request of any committee of the House or Senate, or of any joint committee of the two Houses, the Comptroller General shall make available to such committee or joint committee a copy of any report of the General Accounting Office which was not delivered to that committee or joint committee under section 232 of this Act.

FURNISHING TO COMMITTEES AND MEMBERS OF CONGRESS BY GENERAL ACCOUNTING OFFICE OF MONTHLY AND ANNUAL LISTS OF ITS REPORTS; AVAILABILITY OF REPORTS TO COMMITTEES AND MEMBERS ON REQUEST

SEC. 234. The Comptroller General shall prepare, once each calendar month, a list of all reports of the General Accounting Office issued during the immediately preceding cal-

endar month, and, not less than once each calendar year, a cumulative list of all reports of the General Accounting Office issued during the immediately preceding twelve months, and transmit a copy of each such list of reports to each committee of the House or Senate, each joint committee of the two Houses, each Member of the House or Senate, and the Resident Commissioner from Puerto Rico. At the request of any such committee, joint committee, Member of the House or Senate, or the Resident Commissioner from Puerto Rico, the Comptroller General promptly shall transmit or deliver to that committee, joint committee, Member of the House or Senate, or the Resident Commissioner, as the case may be, a copy of each report so listed and requested.

ASSIGNMENTS OF EMPLOYEES OF GENERAL ACCOUNTING OFFICE TO DUTY WITH COMMITTEES OF CONGRESS

SEC. 235 (a) Notwithstanding any other provision of law, the Comptroller General may not assign or detail any employee of the General Accounting Office to full-time duty on a continuing basis with any committee of the Senate or House of Representatives or with any joint committee of Congress for any period of more than one year.

(b) The Comptroller General shall include in his annual report to the Congress the following information—

(1) the name of each employee assigned or detailed to any committee of the Senate or House of Representatives or any joint committee of Congress;

(2) the name of each committee or joint committee to which each such employee is assigned or detailed;

(3) the length of the period of such assignment or detail of such employee;

(4) a statement as to whether such assignment or detail is finished or is currently in effect; and

(5) the pay of such employee, his travel, subsistence, and other expenses, the agency contributions for his retirement and life and health insurance benefits, and other necessary monetary expenses for personnel benefits on account of such employee, paid out of appropriations available to the General Accounting Office during the period of the assignment or detail of such employee, or, if such assignment or detail is currently in effect, during that part of the period of such assignment or detail which has been completed.

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent that part 3 of title II 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 California?

There was no objection.

The CHAIRMAN. Are there any amendments to part 3 of title II? If not, the Clerk will read.

The Clerk read as follows:

PART 4—THE APPROPRIATIONS PROCESS

RULEMAKING POWER OF SENATE AND HOUSE

SEC. 241. The following sections of this Part are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

(2) insofar as applicable to the House of Representatives, as an exercise of the rulemaking power of the House of Representatives, subject to and with full recognition of the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings.

HEARINGS ON THE BUDGET BY COMMITTEES ON APPROPRIATIONS OF SENATE AND HOUSE

SEC. 242. (a) Each hearing conducted by the Committee on Appropriations of the Senate shall be open to the public except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security, may tend to reflect adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or Government regulation. Whenever any such hearing is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee may adopt.

(b) The Committee on Appropriations of the Senate shall within thirty days after the transmittal of the Budget to the Congress each year, hold hearings on the Budget as a whole with particular reference to—

(1) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(2) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(c) In holding hearings pursuant to subsection (b), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

(d) Hearings pursuant to subsection (b) shall be held in open session, except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member of the Senate.

(e) Hearings pursuant to subsection (b), or any part thereof, may be held before joint meetings of the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives in accordance with such procedures as the two committees jointly may determine.

(f)(1) Section 138 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190e) is repealed.

(2) Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 138. Legislative Budget.".

(g)(1) Clause 27(g) of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"(g)(1) The Committee on Appropriations shall, within thirty days after the transmittal of the Budget to the Congress each year, hold hearings on the Budget as a whole with particular reference to—

"(A) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

"(B) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

"(2) In holding hearings pursuant to subparagraph (1) of this paragraph, the committee shall receive testimony from the Secretary of the Treasury, the Director of the Bureau of the Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

"(3) Hearings pursuant to subparagraph (1) of this paragraph shall be held in open session, except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member and the Resident Commissioner from Puerto Rico.

"(4) Hearings pursuant to subparagraph (1) of this paragraph, or any part thereof, may be held before joint meetings of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.".

(2) Clause 27(f) of Rule XI of the Rules of the House of Representatives, as amended by this Act, is further amended by adding at the end thereof the following new subparagraph:

"(6) The preceding provisions of this paragraph do not apply to hearings on the Budget by the Committee on Appropriations under paragraph (g) of this clause.".

ACTION AND PROCEDURE OF SENATE COMMITTEE ON APPROPRIATIONS

SEC. 243. The vote of the Committee on Appropriations of the Senate to report a measure or matter shall require the concurrence of a majority of the members of the committee who are present. No vote of any member of such committee to report a measure or matter may be cast by proxy if rules adopted by such committee forbid the casting of votes for that purpose by proxy; however, proxies shall not be voted for such purpose except when the absent committee member has been informed on the matter on which he is being recorded and has affirmatively requested that he be so recorded. Action by such committee in reporting any measure or matter in accordance with the requirements of this section shall constitute the ratification by the committee of all action theretofore taken by the committee with respect to that measure or matter, including votes taken upon the measure or matter or any amendment thereto, and no point of order shall lie with respect to that measure or matter on the ground that such previous action with respect thereto by such committee was not taken in compliance with such requirements. Whenever such committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee. Nothing contained in this section shall abrogate the power of the committee to adopt rules—

(1) providing for proxy voting on all matters other than the reporting of a measure or matter, or

(2) providing in accordance with the Standing Rules of the Senate for a lesser number as a quorum for any action other than the reporting of a measure or matter.

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent that part 4 of title II 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 California?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: On page 59, line 13, strike "Bureau of the" and insert "Office of Management and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 61, line 2, strike "Bureau of the" and insert the words "Office of Management and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PART 5—LEGISLATIVE COMMITTEES

RULEMAKING POWER OF SENATE AND HOUSE

SEC. 251. The following sections of this Part are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

(2) insofar as applicable to the House of Representatives, as an exercise of the rulemaking power of the House of Representatives, subject to and with full recognition of the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings.

COST ESTIMATES IN REPORTS OF SENATE AND HOUSE COMMITTEES ACCOMPANYING CERTAIN LEGISLATIVE MEASURES

SEC. 252. (a)(1) The report accompanying each bill or joint resolution of a public character reported by any committee of the Senate (except the Committee on Appropriations) shall contain—

(A) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years), except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period; and

(B) a comparison of the estimate of costs described in subparagraph (A) made by such committee with any estimate of costs made by any Federal agency; or

(C) in lieu of such estimates or comparison, or both, a statement of the reasons why compliance by the committee with the requirements of subparagraph (A) or (B), or both, is impracticable.

(2) It shall not be in order in the Senate to consider any such bill or joint resolution if such bill or joint resolution was reported in the Senate after the effective date of this subsection and the report of that committee of the Senate which reported such bill or joint resolution does not comply with the provisions of paragraph (1) of this subsection.

(3) For the purposes of this subsection, the members of the Joint Committee on Atomic Energy who are Members of the Senate shall be deemed to be a committee of the Senate.

(b) Rule XIII of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"7. (a) The report accompanying each bill or joint resolution of a public character reported by any committee shall contain—

"(1) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years), except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period; and

"(2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such committee with any estimate of such costs made by any Government agency and submitted to such committee.

"(b) It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.

"(c) For the purposes of this clause, the members of the Joint Committee on Atomic Energy who are Members of the House shall be deemed to be a committee of the House.

"(d) For the purposes of subparagraph (2) of paragraph (a) of this clause, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

"(e) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct.".

APPROPRIATIONS ON ANNUAL BASIS

SEC. 253. (a) Each committee of the Senate (except the Committee on Appropriations), and each joint committee of the two Houses of Congress, which is authorized to receive, report, and recommend the enactment of, bills and joint resolutions shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, endeavor to insure that—

(1) all continuing programs of the Federal Government and of the government of the District of Columbia, within the jurisdiction of such committee or joint committee, are designed; and

(2) all continuing activities of Federal agencies, within the jurisdiction of such committee or joint committee, are carried on;

so that, to the extent consistent with the nature, requirements, and objectives of those programs and activities, appropriations therefor will be made annually.

(b) Each committee of the Senate (except the Committee on Appropriations), and each joint committee of the two Houses of Congress, which is authorized to receive, report, and recommend the enactment of, bills and joint resolutions with respect to any continuing program within its jurisdiction for which appropriations are not made annually, shall review such program, from time to time, in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(c) Clause 28 of Rule XI of the Rules of the House of Representatives, as amended by this Act, is further amended by adding at the end thereof the following new paragraphs:

"(d) Each standing committee of the House shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, endeavor to insure that—

"(1) all continuing programs of the Federal Government, and of the government of the District of Columbia, within the jurisdiction of that committee, are designed; and

"(2) all continuing activities of Government agencies, within the jurisdiction of that committee, are carried on;

so that, to the extent consistent with the nature, requirements, and objectives of those programs and activities, appropriations therefor will be made annually. For the purposes of this paragraph, a Government agency includes the organizational units of government listed in paragraph (d) of clause 7 of Rule XIII.

"(e) Each standing committee of the House shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.".

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent that part 5 of title II 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 California?

There was no objection.

Mr. SISK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

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. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, had come to no resolution thereon.

SIXTH ANNUAL REPORT OF ATLANTIC-PACIFIC INTEROCEANIC CANAL STUDY COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States which was read, and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries:

To the Congress of the United States:

I am transmitting the sixth annual report of the Atlantic-Pacific Interoceanic Canal Study Commission covering its activities through June 30, 1970.

The Commission is now developing its final report for submission on or before December 1, 1970, and only a brief letter report is forwarded at this time in conformance with the provisions of Public Law 88–609, as amended.

RICHARD NIXON.

THE WHITE HOUSE, *September 15, 1970.*

PERSONAL ANNOUNCEMENT

Mr. LOWENSTEIN. Mr. Speaker, I would like to announce that yesterday I was absent from the House on official business. Had I been present, I would have voted "yea" on rollcall No. 295.

The SPEAKER pro tempore. The gentleman's statement will be included in the RECORD.

THE NEED FOR A MODIFIED RULE ON TRADE BILL

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

Mr. VANIK. Mr. Speaker, perhaps I am doing a vain thing, but this is the fourth time that I will urge the Rules Committee to approve a modified-closed rule on a bill coming from the Ways and Means Committee.

I expect to ask the Rules Committee to permit the House of Representatives to strike out any section of the trade bill which it finds objectionable. I do not suggest that a trade bill can be written on the floor, I simply suggest that the legislation can be substantially modified and, perhaps, be made acceptable, if the Members of the House have the privilege of voting on certain individual sections which are highly controversial and objectionable.

I strongly oppose the section of this bill—section 104—which freezes into law the oil import quota policy which costs the consumers of America between $5 and $7 billion per year by the Government's own figures.

I strongly oppose the entire title relating to the Domestic International Sales Corp. which will cost the Treasury $630 million in a full year. The staff of the Joint Committee on Internal Revenue Taxation estimates that this title will really cost the taxpayers $720 to $955 million per year without any guarantees of additional exports. The weakness of this proposal is that it provides a tax writeoff for giant corporations on the basis of present export efforts.

These two proposals constitute the most inflationary legislative actions of this session.

A little over a year ago, we were before the Rules Committee with a monumental tax reform bill to close tax loopholes. Today, we are there with a monumental loophole—securely frozen into a conglomerate bill with some items which are desirable.

Conglomerate legislation of this type has no place in a modern legislative body. The closed rule is a crutch for bad legislation. It protects a labyrinth of folly.

A closed rule insults the dignity of every Member of the House. A closed rule threatens the future of the legislative committee which leans on it and the power of the Rules Committee which grants it. Time is running out on this kind of legislative shenanigan.

The closed rule in the House of Representatives, which protects conglomerate bills from modification or improvement, is one of the most arbitrary and indefensible procedures in the House. It provides a shelter for special interest legislation which "sneaks" into the law of the land. It should be abolished.

I hope I can participate in bringing about a change in the rules in the next Congress which will prevent "closed" rules.

THE FAA AND NOISE—DOMAIN OF SPECIAL INTERESTS

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

Mr. CHARLES H. WILSON. Mr. Speaker, the Federal Aviation Administration is derelict in its duties owed to the American people. Apparently special interest groups have greater weight in the decisionmaking processes of that agency than does the general public. It is my naive belief that the FAA should not only assist the aviation industry but should also protect the public. While I gladly realize that these two roles are not necessarily exclusive, someone should let the FAA know that as well.

Latest in a series of sellouts of the needs of ordinary citizens is the FAA's refusal to cooperate with the city of Inglewood, Calif.'s, noise abatement program. By passing the bureaucratic buck between themselves and the FCC on the latest request, they are effectively making local antinoise pollution efforts ineffective.

Over the past few years, I have continually attempted to see promulgation of both legislation and agency regulations that would combat noise pollution and end the harm that accompanies it. My efforts have not been marked by glowing successes. As a Member whose congressional district includes major aerospace firms, it may seem strange that I voice my criticism of them in regard to jet noise so strongly and so often. But they and airline companies and engine manufacturers have also been remiss in their duty owed to the public. While it is true that the manufacturers are attempting to produce quieter engines, the fact that the FAA has not gotten tough with them has naturally allowed them to place a lower priority on antinoise research than should be placed upon it. Both the FAA and the aircraft industry had better realize that the people are not going to stand for the irresponsible treatment of this problem that has typified their past actions.

Another test of special interests versus John Q. Public is coming up shortly. The FAA has asked for comment on an advanced notice of proposed rulemaking regarding civil supersonic aircraft noise certification standards. Among others, the city of Inglewood, already severely affected by aircraft noise, has carefully considered the proposed rule and has made recommendations to the FAA. It is evident that with the advent of the SST, and in the absence of strict regulation of noise, Inglewood and many other cities located in close proximity to large international airports, will be even more severely affected by the noise which will be generated by the supersonic planes.

To put it mildly, I have raised objections to funding development of the SST on ecological grounds as well as economic principles since the program was pushed on the Congress. Pollution is killing us all. We must act with that fact in mind, regardless of the profit and loss mentality of certain firms and their shills at the FAA. On a greater ledger than mere business accounts, air and noise pollution must be entered on the loss side in blood red.

For my colleagues information, I now include in the RECORD, the recommendations of the city of Inglewood regarding noise type certification standards. Hopefully, the FAA will take cognizance of their suggestions and objectively analyze them. Or am I still being naive?

The insert follows:

CITY OF INGLEWOOD, CALIF.,
August 20, 1970.

FEDERAL AVIATION ADMINISTRATION,
Office of the General Counsel,
Washington, D.C.

GENTLEMEN: You have asked for public comment on an Advanced Notice of Proposed Rule Making regarding civil supersonic aircraft noise type certification standards. (Docket No. 10494; Notice 70-33). Contained herein are the recommendations of the City of Inglewood.

You say that a central question is the precise role that economic and technological factors should play in the type certification of supersonic aircraft. In our opinion, the method of financing and the economic viability of the SST are sufficiently questionable, the benefits to be gained accrue to such a select few, and the overall program is so costly to everyone, that environmental considerations should be given much greater weight in basic decisions regarding this aircraft.

Furthermore, the SST will no doubt use many of today's airports. All these airports already have a severe aircraft noise problem. Massive land use changes will undoubtedly prove less feasible economically than quieting of the engine, plus being much more disruptive to the lives of people.

In answer to your closely related question of economic incentives, the City of Inglewood advocates raising passenger fares and freight rates *NOW* for the specific purpose of abating noise from present aircraft. We think people will pay higher fares; we think the CAB and/or Congress should allow or mandate higher fares for this purpose; and we think it is the responsibility of the airlines to reduce their existing pollution before venturing on a new program at the expense of the citizens of the country. We suggest taking care of today's problem first, then getting on with the SST—not until the current problems are at least underway to solution.

Actually, to be realistic you should be requesting comments on three rules: aircraft certification, airport certification, and aircraft operations. The aircraft noise problem cannot be separated from the lives of people living around airports and affected by actual aircraft operations.

Our specific recommendations are based on criteria which we consider to be the maximum noise that is reasonable to a person living under or near the flight paths to major airports. These criteria are:

75 dBA—Maximum outdoor flyover noise consistent with reasonable sleeping conditions inside a non-accoustically treated house or apartment.

85 dBA—Maximum outdoor flyover noise consistent with outdoor activities in single-family neighborhoods. Homes should be, accoustically treated if the sound level exceeds 75 dBA.

90 dBA—Maximum noise level consistent with the minimum outdoor activity associated with certain types of apartments. Apartments should be accoustically treated if the sound level exceeds 75 dBA.

RULE NO. 1 AIRCRAFT NOISE CERTIFICATION

In contrast to the way Part 36 of the Federal Aviation Regulations is written, we prefer the dBA unit for measurement of aircraft noise. Instruments for making this kind of a noise measurement are much less expensive than the equipment required for calculation of EPNdB, and thereby saves the taxpayer money at all governmental levels. Also, the correlation between subjective re-

sponse and "A" weighted noise levels is almost as good as the correlation with EPNdB. However, we do recognize the slight advantage of EPNdB in reducing spectral irregularities. Therefore, we suggest that the certification rule be written in terms of both dBA and EPNdB. The EPNdB specification is perhaps more crucial to the certification process, but the dBA specification will allow simple and inexpensive enforcement of the operating rule. We must assume, of course, that enforcement is indeed intended.

From discussions with some of the designers of aircraft engines, we understand that the measurement locations specified in the present Part 36 are too close to the airport. Much better noise reduction could be attained for the majority of people affected if the noise reduction techniques were optimized for locations slightly farther away from the airport. We agree with this concept and it is contained in our recommendations which follow. Also, this will allow noise levels to be established which are lower than those previously established for subsonic aircraft, and which are more consistent with reasonable levels for residential life.

Our recommended noise limits are:

75 dBA (88 EPNdB) on approach at two nautical miles from the runway threshold.

75 dBA (88 EPNdB) on takeoff at four nautical miles from brake release.

75 dBA (88 EPNdB) at 0.5 mile nautical miles to the side.

If vertical navigation equipment is available and procedures have been established and certified for its use on approach down to category I weather minimums, then these procedures should be allowed in lieu of a 3° glide slope. This will allow the manufacturer or airline more flexibility in meeting the levels recommended above. Power cutbacks on takeoff should be allowed provided that it is not reduced beyond that power setting which would maintain level flight in the event of the failure of one engine, or which will maintain a 500 foot per minute rate of climb, whichever power setting is greater.

RULE NO. 2: AIRPORT CERTIFICATION

All airports should be required to be certified with respect to noise compatibility with surrounding neighborhoods. The airport operator and airlines should be required to cooperate in the soundproofing of residences within the 75 dBA contours for the new aircraft. This should be done in consultation with state and local governments. This type of rule will be additional economic incentive for airlines to specify aircraft with low noise levels.

RULE NO. 3: AIRCRAFT OPERATION

This rule should state that aircraft operating into and out of United States' airports must use that procedure which was used for noise certification, except where safety dictates otherwise or a different procedure will create *less* noise over residential areas. Airport authorities may use the dBA standard specified in Rule No. 1 to verify adherence to these procedures.

The City of Inglewood is perhaps uniquely qualified to make recommendations on these proposed rules. We have been faced with the aircraft noise problem for some time, and have undertaken a comprehensive and constructive approach to achieve a solution. The above recommendations were developed primarily by Mr. Randy Hurlburt, a professional acoustical engineer on the City staff, whom we have hired primarily for the purpose of helping us reduce noise pollution. Mr. Hurlburt is also an aeronautical engineer and an instrument rated pilot, and has given considerable thought to what is reasonable, safe, and proper.

If you will adopt our recommendations in substantially unaltered form, I think you will find that the air transportation industry will no longer be faced with the tremendous problem it now has in expanding existing airports and locating new ones. You will also be doing a great service to those people who live in the vicinity of this country's airports.

Sincerely,

DOUGLAS W. AYRES,
City Administrator.

THE LATE JOHN A. McELVENEY

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

Mr. STRATTON. Mr. Speaker, I am deeply saddened by the news that our very good friend and the assistant bill clerk of the House, Jack McElveney, passed away suddenly over the weekend just a month short of his 77th birthday.

Jack McElveney came from my own area of upstate New York, from the capital city of Albany. Jack came down here from Albany 49 years ago, in March 1921, as an assistant to the late Representative Peter V. Ten Eyck of Albany, and then later served in the same capacity with the late Representative Parker Corning of Albany. After that Jack served with the late Senator Jim Mead of New York while he still served as a Member of the House, and thereafter he became the bill clerk of the House.

In a very real sense, Jack McElveney's life was the House of Representatives. So devoted was he to it, indeed, that although he retired on pension some 5 years ago, he missed his service here so much that he came back here voluntarily and renewed his earlier tasks without compensation until his death.

Jack McElveney was the man who took the bills that we all introduce into the legislative hopper, took them out of the box and started them on their way through the legislative mill.

Mr. Speaker, we will all miss Jack McElveney, his smiling face and his eager interest on its affairs of this House and in the concerns of its Members.

I shall also miss Jack in a very special way, Mr. Speaker. I have known him personally, of course, throughout my 12 years here in this House. But he was a neighbor of mine, never an actual constituent. But last January, when the State legislature redistricted the State of New York, broke up my present district, and attached my home city of Amsterdam to Schenectady and Albany Counties, Jack McElveney expressed his pleasure that at long last I would be running for reelection in his home city of Albany and he would now be able to support me. We chatted frequently about the prospects for this fall and for the future. I was deeply grateful for Jack's encouragement and his courtesy.

Here was a true gentleman of the House, Mr. Speaker, a man who dedicated his whole life to the legislative process. I salute him for his accomplishments and shall miss him here in this Chamber.

COMMENDING PRESIDENT FOR INITIATING PEACE PROPOSAL FOR THE MIDDLE EAST

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

Mr. DERWINSKI. Mr. Speaker, I take the time of the House to commend President Nixon for taking the initiative in working for a peace proposal for the Middle East. We should all hope that the ceasefire in the Middle East will advance the prospects for a lasting peace.

A fundamental interest of the United States in the Middle East is to insure that the integrity of all nations in the area will be preserved and that the Soviet Union should not be permitted to extend its tentacles into that geographic section.

Bringing the parties directly involved to recognize the necessity of negotiating, and to get that process started, represents a tremendous forward step. However, it will be necessary to use patience and imagination to keep meaningful diplomatic contacts to overcome the legitimate concern that the Israeli Government has toward Soviet manipulation of radical Arab governments and Red military support of radical refugee organizations.

Mr. Speaker, in my opinion, the only description that fits the Middle East is that of a most explosive trouble spot because of the continuing possibility of renewed hostilities between Israel and her neighbors, and the potential for a confrontation between the United States and the Soviet Union.

May I further emphasize, Mr. Speaker, that the wave of hijacking while directly related to the Middle East crisis has grave international complications that could well erupt in other areas unless firmly dealt with by all the governments whose territory has thus far been involved in these areas.

LABOR DAY SPEECH OF I. W. ABEL, PRESIDENT OF THE UNITED STEELWORKERS OF AMERICA

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

Mr. GAYDOS. Mr. Speaker, on Monday, September 7, I. W. Abel, president of the United Steelworkers of America and vice president of the AFL–CIO, delivered a special Labor Day radio message over the National Broadcasting Co., radio network.

This message is most timely and should receive the critical attention of all Members of Congress. Mr. Abel has dedicated a lifetime not only to the labor movement, but has expanded labor's influence into many sensitive social areas which have been most beneficial to all Americans.

At this time, I submit for the CONGRESSIONAL RECORD the text of Mr. Abel's message for the benefit of my colleagues who did not have the opportunity to hear the broadcast.

LABOR DAY SPEECH OF I. W. ABEL

On behalf of the United Steelworkers of America, on this Labor Day 1970, I extend warmest fraternal greetings to my fellow Steelworkers and all members of organized labor . . . and best wishes to the many friends of Labor in the United States.

It is traditional on this uniquely American

holiday, for the labor movement to pause and take stock . . . to count our blessings . . . to savor the accomplishments . . . and to ponder some of our current concerns.

There is no doubt that we have many reasons to be grateful as we celebrate Labor Day this year. For those of us who have been a part of the labor movement for many years, our progress has been truly phenomenal.

We have gained benefits and protections for union members that not only were unheard of 20 and 30 years ago; they weren't even dreamed of.

We remember only too well when workers were treated with less regard than the machines they manned and the tool with which they worked; when workers were worked as hard as possible at the lowest rates possible; when a man often had to trade his dignity for a pay check.

The younger union members of today do not have the benefit of that kind of perspective so it is more difficult for them to have the same sense of union pride that the veteran members have.

They accept the fact of paid vacations, yet paid vacations did not exist for many workers until after their unions had been organized and won the right to paid vacations in negotiations. Pensions, too, are accepted as part of the job. But they were not always accepted as going with the job. In 1947, for example, the Steelworkers had to strike for 42 days to win pensions for our members employed in the basic steel industry. Now, we not only have the highest pensions in our history, we have negotiated vacation bonuses of $30 a week and also what we call a "widow's pension," to provide retirement income for surviving spouses.

Yes, these and many other benefits were not even pipe dreams in the beginning . . . hospital insurance . . . jury pay . . . supplemental unemployment benefits . . . paid holidays . . . paid funeral leave . . . payment of doctor's visits . . . extended vacation of 13 weeks . . . protection of the earnings of workers affected by technological change.

But our record of accomplishment does not stop at the union plant or the union hall or the union home. In fact, labor's efforts have benefited more people who are not union members. It was labor that pressed for free public schools. It was labor that forced the abolition of child labor. It was labor that forced the shortening of the working day.

In helping to promote the general welfare, unions have consistently called for adequate aid to education at all levels; consumer protection; tax reform; elimination of poverty; clean air and clean water; adequate Social Security payments; medical cares for all regardless of income, recent minimum wage levels and much more that time does not permit to enumerate, but all aimed at promoting the general welfare.

I would say that no other single organization has devoted as much of its time, money and effort to lift the level of life for all the people as has the labor movement of the United States.

But intruding upon labor's sense of pride and accomplishment are some problems which are cause for concern for the American worker. First, the worker today knows that he is being squeezed by the twin evils of recession and inflation. And adding to his sense of anger and frustration is the fact that the Nixon Administration views his plight with academic detachment and no visible proof of concern.

Our free enterprise system is supposed to function for the benefit of all; not just a majority, silent or otherwise. But it has not been functioning for the benefit of all. So we have wound up with the worst possible combination of developments—the most severe inflation in 20 years, the highest interest rates in 100 years and the sharpest increase in unemployment in 10 years. Since July of last year, unemployment has risen by 1.3 million and it is expected to go higher.

But all Americans, not just workers, are being put through the economic wringer. Living costs have risen from 4.2 percent in 1968 to 5.4 percent in 1969 and about six percent since last December.

Wage and salary earners are suffering additional blows in the form of cuts in working hours and by layoffs. In June the average work week in manufacturing was down to its lowest level since the recession year of 1961. The buying power of weekly earnings, after Federal taxes, was less in June than it was five years earlier in 1965.

And so we have the worker being squeezed on one hand by ever increasing prices and being battered on the other by decreasing purchasing power. Yet many say it is the worker who has caused his own plight by his wage hikes.

But those who would point the finger of blame at unions ignore the fact which show that the inflation of the 1960's has been largely a profit inflation—combined with a credit inflation in the past 19 months. For example, corporate profits after taxes soared 93 percent from 1960 through the first half of 1969. But during this time the real buying power of the average non-supervisory worker went up only 10 percent and his after-Federal tax take-home pay was up only 34 percent.

In short, profits zoomed much higher and faster than wages. The result: Workers did not share fairly in industry's record profits. And neither did the consumer because industry refused to hold the price line, which it could have done and still made very large profits.

Then came the Nixon Administration, with its tight money policy which jacked up interest rates, increased prices all along the line and caused production cutbacks, with resulting unemployment. This is the wrong way to right our economic wrongs.

Organized labor has repeatedly urged the Government to adopt selective, pinpointed measures to curb the specific causes of inflation. We have urged the President to use the stand-by power given him by Congress to curb the specific causes of credit inflation, to impose interest rate ceilings and expand credit for needed housing, public facilities and regular business operations. We also have said that Government action is needed to curb the ability of the country's major corporations to increase prices and to curtail the increasing concentration of economic power.

However, the President appears determined to stick by his "game plan" of tight money and unemployment. The harsh truth is that the Administration—and many others—regard the worker as expendable in the fight against inflation.

This philosophy of the expendability of the American worker also carries over into the area of safety and health on the job. Eighty-million American working men and women fight a losing war every day against death and injury on the job. More Americans are killed at work than in Vietnam. The costs of accidents and deaths are staggering. Each year 14,000 workers are killed, two million are disabled and seven million are injured. Each year $1.5 billion is lost in wages; $600 million in medical costs; $6.8 billion lost to the national economy. Yet, the Nation still lacks effective occupational health and safety legislation. An effective proposal is pending in the present Congress but Big Business is lining up its biggest guns to shoot it down.

One would think there would be no difficulty in obtaining effective legislation where lives are concerned. But, here again, too many believe the worker is expendable, that it is not worth the money to do what should be done to make his workplace safe and healthy, too many who give a higher priority to saving money than to saving life. But these selfish voices of special interests must be drowned out by demands upon Congress for prompt passage of a bill which will do the job—the bill recently approved by the House Education and Labor Committee. It's known as the Daniels Bill and it has the official endorsement of the labor movement. I can't think of a more appropriate act this Labor Day than for union members and friends of labor to write their Congressmen and Senators on behalf of the Daniels Bill. It is this kind of support that must be forthcoming if the Daniels Bill is to become the law of the land.

The workers of America have another concern this Labor Day. They see not only their jobs being threatened by foreign imports, they actually see their jobs being wiped out. The Shoe Workers Union, for example, estimates that 200 million pairs of shoes imported last year were equivalent to the exportation and the loss of 65,000 job opportunities. The Textile Workers have seen plant after plant close. And so it goes with one group of workers after another.

The labor movement, contrary to charges that it is becoming protectionist, believes in a healthy expansion of trade with other nations. But we insist that it should be fair trade; that there be international standards to eliminate sweatshop working conditions; that such expansion of trade should not under-cut unfairly the wages and standards of American workers.

As I stated at the beginning of these remarks, our economy must work for the benefit of all. If the worker is regarded as expendable in fighting inflation . . . if the worker is regarded as expendable in the prevention of accidents and death on the job . . . if the worker is treated as expendable in our Nation's trade with foreign countries . . . then the economy is not working for the benefit of all.

On Labor Day our Nation pays fitting tribute to workers for their role in our society as producers and builders, as suppliers of the muscle and manpower which fuel our country's industrial machine. But it is not fitting to pay tribute to the worker on his National holiday and then ignore him all the other days of the year. It is not fitting to pay him signal honor on Labor Day and then expect him to pay the price for halting inflation, to risk his life unnecessarily on the job and to watch silently while his job is wiped out by imports.

American labor, on its national holiday, has the right to insist that all share fairly in the benefits of our private enterprise system . . . the right to insist that human values and priorities not be drowned by the onrushing wave of technology . . . the right to insist that the private enterprise system in America does not exist for the primary purpose of making a profit for owners . . . to insist rather that the private enterprise system exists primarily to provide goods and services and a decent standard of living for people.

These are Labor's rightful demands on this Labor Day 1970. And this is what the United Steelworkers of America and the labor movement as a whole will continue to insist upon until they are realized.

Thank you.

CRIME

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Oklahoma (Mr. EDMONDSON) is recognized for 30 minutes.

Mr. EDMONDSON. Mr. Speaker, of all the problems that confront the American people today—and there are many of them—I do not believe any problem is

more urgent and more distressing than the problem of continued crime in this country and the continued upward spiral of the crime rates. Conversations with the constituents that I am honored to represent in northeastern Oklahoma convince me that the people are terribly impatient with the rate of action that has been taking place on this front, and their impatience is not confined to any particular part of the Government. The feeling of urgency, and the demand for action, is a strong feeling that prevails among the people.

The American people have good reason to be distressed about the situation. The latest crime reports issued by the Federal Bureau of Investigation indicate that the first 3 months of 1970 found increases across the board in practically every major category of crime throughout the United States.

Surprisingly, the major increases were not in the big cities where the publicity has been concentrated. The most substantial increases in total crime during that 3-month period in 1970 over the 3 months that began in 1969 occurred in cities from 100,000 to 250,000, where the total went up 22-percent over 1969. An 18-percent increase occurred, interestingly enough, in communities under 10,000 indicating that whether you live in a small town or in a large city, you are confronted with this very serious problem, and it gets worse day by day.

No section of the country is immune from it. The increase in violent crimes in the Northeastern States during that period was only 6 percent, but the increase in other crimes ranged from 10 percent, in the case of murder, to 8 percent in the case of aggravated assault, and 6 percent in auto theft.

In the North Central States also there was a significant increase in the crime rate. There was a 17-percent total increase in the North Central States. In the Southern States it was 17 percent, and in the Western States only slightly less, 15 percent. The big cities of the country turned up some statistics that were absolutely appalling in this connection.

New York City showed increases in all but two categories of major crime, and those increases were very, very substantial. Auto theft, while not one of the major increases, still went up very substantially. Larceny, burglary, breaking, and entering, and aggravated assault—you name it, and it went up in New York City.

The same can be said for cities from the South to the North and from the East to the West. Crimes went up in all but two categories in Atlanta, Ga. They went up in all categories in the city of Chicago, and in all categories in the city of Detroit, and in most categories in the city of Los Angeles, and in all but one category in the Nation's Capital, where only a short time ago we were being assured that the streets were going to be made safe for everyone.

The statistics for the District of Columbia will, I think, have particular interest for all of us here. They showed an increase in the category of burglary from 2,780 to 3,076 during the 3-month period. In the category of aggravated assault, the figure increased from 707 to 952 during the 3-month period. Burglary and breaking and entering went up from 4,872 cases to 6,175.

These increases were being registered all across the country. In Oklahoma City and in Tulsa there were substantial increases. They prevailed in practically all categories.

Mr. Speaker, at the conclusion of my remarks I will include the complete table of the increases in the different cities of the Nation in these various categories ranging from murder and manslaughter to auto theft, as reported in the uniform crime reports of the FBI.

There is a great deal of contention and discussion about who is responsible for this continued situation. Very obviously an effort is underway at this time to put the blame on the Congress of the United States. I am not here today to say that no blame should accrue to the Congress. I personally have been very unhappy about the slowness in several of the committees—and it is not confined to just one committee—to hold hearings and to move bills that vitally affect the crime these programs, and I know the distress which I express is shared by many.

But, Mr. Speaker, there is also some situation and the tools that are available to the various law enforcement agencies to deal with crime. We have had bills pending since early in 1969 on some of responsibility at the other end of Pennsylvania Avenue. The Congress passed not too very long ago one of the major pieces of legislation to deal with the problem of crime in this country, the Safe Streets Act. The Safe Streets Act has provided a steadily increasing amount of money to be made available to local police departments and sheriffs and highway patrols to carry the fight to the criminal and to organized crime. For fiscal year 1971, the Safe Streets Act carries an authorization of $650 million, but the men who are in charge of the fight against crime in the Federal executive department confined their request for money to implement this program to $480 million for fiscal year 1971—just a little more than two-thirds of what the authorizing legislation made available to them.

All of us know of the long delay in allocating Federal funds which were appropriated last year to law enforcement agencies across the country, a delay which carried on for months, a delay which made many of us, I believe, very dubious about the zeal present in the Department of Justice to carry out the Safe Streets Act and to make the tools of law enforcement available across the country through the funds provided by the Congress.

I believe the administration has failed very seriously in its responsibility vigorously to implement the Safe Streets Act, and many police departments and sheriffs' departments across the country today are not as well equipped and well trained as they should be because of this lag on the part of the administration.

Another area in which I feel there has been a serious lag by the administration is in using the tool made available by this Congress to deal with the problem of travel across State lines for the purpose of inciting riot and causing violent civil disturbances. I was one of the cosponsors of that bill when it passed the Congress. I still believe it is one of the finest tools possessed by the Government today to try to deal with this problem.

How many times has the administration made use of this bill since it was passed by the Congress of the United States? I personally know of only two cases, both of them in the city of Chicago, where prosecutions have been brought under this particular law. It is available to handle the problem in California, New York, Florida, Alabama—anywhere in the country—and certainly the files of the FBI must be bulging with the evidence of representatives of various subversive groups traveling across the country, from one college campus to another and from one city to another, to spread anarchy and the seeds of revolution and to try to produce rioting and violence on the college campuses and on the streets of America.

But in only two instances—the Chicago Seven case and now the Chicago 12—has prosecution been initiated. I believe there has been a serious failure on the part of the administration to use this major tool to try to deal with this serious problem.

I just had called to my attention another regrettable failure by this administration to recognize the seriousness of this problem in the country. The other day I received some correspondence from one of our U.S. District Judges, Judge Allen E. Barrow of the U.S. District Court for the northern district of Oklahoma, Tulsa, Okla., in which he made available to me an exchange of correspondence between himself and the Deputy Attorney General of the United States, Mr. Richard G. Kleindienst.

Mr. Kleindienst had written to the judges across the country asking for their advice as to what could be done to improve the security of the courts. I am sure he has been shocked, just as many of us have been, by the incidents of violence and disruption which have occurred in the courtrooms of the country. Everyone knows of what happened in the California court, in which a trial judge, an assistant district attorney and some of the jurors were kidnapped at the point of a gun and taken out of the courtroom by a group of convicts.

In my own home State just within the last few weeks a district judge of the State got out into his automobile in the morning and had it blow up under him, and he was critically hurt and has been in the hospital for quite some time since then.

The necessity for providing security in the courts is absolutely imperative, and yet when Judge Barrow joined other judges in advising that it was absolutely essential that additional U.S. marshals be provided in order to provide security in the Federal courts, he encountered the judgment of the assistant attorney general that existing manpower must be made to serve. Apparently, it was considered undesirable to secure additional manpower for this purpose.

Judge Barrow wrote me:

I know all of the judges would appreciate Congress taking immediate notice of the threats to our courts system and personnel and appropriating sufficient funds of money to establish some sort of security for the courts. Now it is "hit and miss"—not enough Marshals, Guards, trained personnel nor funds with which to hire them.

Mr. Speaker, I ask unanimous consent that the exchange of correspondence between Judge Barrow and Mr. Kleindienst and other officers of the court be made a part of the RECORD at the conclusion of my own remarks here today.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield to me?

Mr. EDMONDSON. I am glad to yield to my distinguished Speaker.

Mr. McCORMACK. In connection with the kidnaping and the murder of the judge in California, which was a brutal and inhuman act, that constituted an assault upon the judicial system of our country. It could have happened to any judge anywhere throughout the United States, whether in the Supreme Court, the circuit courts, the U.S. district courts, or any of the State courts or even down in the lowest courts in any section of the country or any State of the Union. The judges of our country have to realize the meaning and the significance of what this act implies in terms of the one department of the Government which is supposed to be the citadel of the liberties of our people. It deals with not only those charged with crime but the rights of the law-abiding citizens under the Constitution of the United States.

I am glad that the gentleman from Oklahoma read the letter that he received from the district court judge, Judge Barrow, because it clearly indicates to me that he has an appreciation of what these assaults constitute and, whereas this happened in the case of a few, it could just as well happen to any man who sits upon the bench.

I might also say that these attacks upon police officers work in the same way. Those men are targets. They wear the uniform. The courts have to realize that they have a responsibility in connection with seeing that the rights of law-abiding citizens are protected. Furthermore, public officials have the duty and responsibility of not following the path of appeasement but, rather, the path of firmness in protecting the rights of individuals charged with crime as provided for in the Constitution and also protecting the rights of the law-abiding citizens of this country who are in the great and overwhelming majority.

I am very proud of the instruction that I gave the Chief of the Capitol Police 4 years ago, which instruction is still in existence, when we had a threatened march on this chamber by a group which was not emotionally minded but was, rather, possessed of cold and deliberate minds. They threatened to march on the Capitol and take over this chamber. I gave instructions to the Chief of Police at the Capitol at that time that first, I would not stand for defiance of the law; second, I expected him to enforce the law; and third, and this is more important than the other two—I said "I will back you up."

If the public officials throughout our country will let the police know that they will be backed up, there will be less crime throughout the country.

Mr. EDMONDSON. I thank the Speaker very much for his very timely comments. I could not agree more with his statement that the police officers of America today are the targets and the special targets of some of the would be revolutionaries who are circulating across this country. In fact, any representative of order in our country is a target for this group.

Our firemen have been the targets of some of them as well as our policemen and our National Guard and even Federal troops.

One of the bills I regret very much we have not moved forward in this Congress is House Resolution 793, introduced on the third day of January 1969 with 24 sponsors joining me in introducing the bill to make it illegal to assault or kill a member of the Armed Forces while serving under the direction of the President, to try to establish the Federal jurisdiction over attacks upon our Armed Forces when they are ordered into handling riot situations or a crisis at the direction of the President. I think we owe this to the Armed Forces whether they wear a National Guard uniform or an Army uniform or an Air Force uniform or whatever it may be when they are sent in by the President to deal with an emergency or a riot or something of that nature. It should be a Federal offense to attack them and certainly it should be a Federal crime to kill them.

Mr. McCORMACK. And, if the gentleman will yield further, they are only sent in by the President when the Governor requests it.

Mr. EDMONDSON. That is right and that is the case in virtually every instance that I know of.

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

Mr. EDMONDSON. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I want to commend the gentleman from Oklahoma for taking this time to point up this very important subject. I agree with the genleman that there is no area of legislation which is of more importance than these crime bills. I think that although we have passed the District of Columbia crime bill and the safe streets bill that nevertheless, as the gentleman pointed out, there are several other bills that are equally important. The bill on explosives, for example, that has been languishing in the committee, and others, I think that very properly this Congress ought to move swiftly in these closing days to get this legislation out and to get it enacted.

There has been a feeling in recent years, as the gentleman has alluded to that it is somehow wrong for us to oppose violence and it is somehow wrong for us to want to maintain law and order. Those terms are we are told symbolic of repression. We cannot have an orderly society without order. I think the events that are taking place in the Middle East in recent weeks have perhaps reminded some people that when you have wild men abroad and operating against us certainly only firm and quick action on our part can maintain the kind of procedures that we need in a democratic society.

Mr. Speaker, I want to again commend the gentleman and I want to support the gentleman. I think many of us in this body feel the same way the gentleman does. I think it is important that that fact should be made known.

I also want to agree with what the gentleman has said with respect to some failure to take full advantage of the legislation that is on the books. I think particularly of the legislation that we adopted here several years ago to withdraw from the students who are guilty of seriously disrupting the educational process, the taxpayers' funds that are made available to them.

Now the country is concerned about whether there is going to be a new wave of college unrest when the colleges open up again. We have indicated that we would hope that the administrators and the faculties would take advantage of their positions of responsibility and try and prevent this kind of thing from getting under way. But I think the law that is already on the books has been enforced only rarely. I believe you could count on the fingers of a couple of hands the number of people who have actually had their loans or their scholarships taken away because they burned down the old chapel, or what have you. It seems to me that those who are responsible for enforcing the law ought to make sure that the legislation we have on the books is enforced, and that it is the intent of Congress that this be made clear.

Mr. EDMONDSON. The gentleman makes a good point. I agree with him wholeheartedly. On the subject of the campus situation, House Resolution 10544 with approximately 50 cosponsors was introduced on the 24th of April, 1969, to try to meet effectively the problem of campus disruptions and the problem of people who brought explosives or guns on college campuses, for such purposes.

Mr. STRATTON. Exactly.

Mr. EDMONDSON. To my knowledge, that bill is still waiting for hearings and action on it.

We have some bills dealing with our narcotics problem which is getting more and more serious every day. I am glad that we are finally going to get a chance within the next week to vote on measures to tighten up the penalties in connection with narcotics abuse and particularly the professional pusher. This bill is long overdue.

It is very good news for the Congress that we will soon have it on the floor of the House.

Mr. STRATTON. If the gentleman will yield further, I just want to support his statement. This is the kind of thing I have heard about in going around my district in upstate New York. I think people are concerned about crime and disruption in the colleges and they are looking to the Congress for leadership.

Mr. EDMONDSON. In summary, I think it is imperative that this Congress meet its responsibilities in the field of updating and strengthening our laws to deal with crime. I think we have some bills pending before us now that must be acted upon before this Congress adjourns sine die, and it is imperative from the standpoint of the public that they be acted upon, I am quite certain as quickly as possible.

In addition to that, however, the administration must also measure up to its responsibility. There is enough blame in this situation to pass around all over the country. If we are going to spend all our time concentrating on who is at fault, we probably will not get the job done.

I hope the President will seek the funds that are needed to carry out effectively the Safe Streets Act, and that he will seek the funds which I am sure the Congress will provide to give us security in the courts, and that he will use this bill that makes it a crime to cross State lines to incite riots and civil disturbances more effectively and more generally than he has been using it in the past.

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

Mr. EDMONDSON. I yield to the gentleman.

Mr. RUTH. The gentleman now in the well has been talking about crime control, and I do not think there could be a more appropriate subject. I commend the gentleman for pointing out those things that could be done in the country. I heartily agree that any legislation we can pass is necessary and could be most helpful.

But I notice that the gentleman mentioned that most of the blame in the direction of the administration. Did the gentleman mention any blame in connection with the judiciary? Would the gentleman comment on that?

Mr. EDMONDSON. I think my remarks were concentrated upon the Congress and upon the Executive. I share the feeling, which I think is held by the gentleman, that we have far too many judges who have leaned over backwards in the attempt to appear liberal and lenient and who have not been tough in dealing with criminals and people who are proven to be criminals in cases brought before them where there have been jury verdicts of guilty. I think the judges are finally waking up across the country to the fact that this policy of leniency is undermining the faith of many people in our courts and in the administration of justice.

Yes, there is a responsibility in the judiciary and it extends to many of our trial courts just as it does to the Highest Court in the land in the handling of some cases on appeal. But I think our courts are at least waking up to the national need for swifter, more effective justice. The people are entitled to have a full scale attack on this problem in all three branches of the Federal Government—at the highest level and at the local level.

Mr. RUTH. I thank the gentleman because I think this makes a much more complete statement.

Mr. EDMONDSON. I thank the gentleman for his comments.

The material referred to previously in my remarks is as follows:

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF OKLAHOMA,
UNITED STATES COURTHOUSE,
Tulsa, Okla., September 9, 1970.

The Honorable ED EDMONDSON,
United States Congressman, Second Congressional District, 2402 Rayburn Building, Washington, D.C.

DEAR CONGRESSMAN EDMONDSON: Enclosed herewith are copies of letters in answer to correspondence from the Deputy Attorney General and the Director of the Administrative Office of the United States Courts.

I know all of the Judges would appreciate Congress taking immediate notice of the threats to our Courts' system and personnel and appropriating sufficient funds of money to establish some sort of security for the Courts. Now it is "hit and miss"—not enough Marshals, Guards, trained personnel nor funds with which to hire them.

Sincerely,

ALLEN E. BARROW,
U.S. District Judge.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF OKLAHOMA,
UNITED STATES COURTHOUSE,
Tulsa, Okla., September 9, 1970.

Mr. RICHARD G. KLEINDIENST,
Deputy Attorney General,
Washington, D.C.

DEAR MR. KLEINDIENST: Today I received a copy of your letter addressed to the Director of the Administrative Office of the United States Courts which is dated August 27, 1970.

I appreciate your concern for the safety of the Courts, and I would value even more some action and aid to assist Courts in getting adequate personnel to set up a meaningful security program.

You, no doubt, know that in my district we have had some serious situations occur in the last few days. There has been a bombing of a state District Judge who is still in a very critical condition; and, also, there have been numerous threats on judges in courts in this area following this incident.

Someone must do something immediately, in my opinion, to get funds from Congress for the necessary personnel to assure proper security of the courts. I assume this would come under the Department of Justice.

Thanks again for your letter and concern. Any additional information you have toward setting up a security program for the courts will be appreciated.

Sincerely,

ALLEN E. BARROW.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF OKLAHOMA,
UNITED STATES COURTHOUSE,
Tulsa, Okla., September 9, 1970.

Mr. ROWLAND F. KIRKS,
Director, Administrative Office of the United States Courts, Washington, D.C.

DEAR MR. KIRKS: Today I received your cover letter dated September 3, 1970, enclosing a copy of a letter from the Deputy Attorney General relating to his concern over the safety of the courts.

Enclosed is a copy of my response to the Deputy Attorney General. I will state that the best way to handle this problem is for the Administrative Office to make the Conference aware of the necessity for trained personnel in security. I have no doubt that if such a request were made, that Congress would appropriate funds to set up the necessary security for the courts.

The situation no doubt will get worse before it gets better. It seems we must prepare for this possibility.

Sincerely,

ALLEN E. BARROW.

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
SUPREME COURT BUILDING,
Washington, D.C., September 3, 1970.

To: The Chief Judges of the Courts of Appeals.

To: The Chief Judges of the District Courts.

I am transmitting to each of you a copy of a letter I have received from the Deputy Attorney General which expresses the grave concern which all of us feel for the safety of the court room under present circumstances and urges a reappraisal of the use of the deputy marshals.

I urge your earnest consideration of Mr. Kleindienst's suggestion and wish to assure you that the Administrative Office is ready to assist in these matters in any way in which we can be of help.

Sincerely,

ROWLAND F. KIRKS, *Director.*

OFFICE OF THE DEPUTY ATTORNEY
GENERAL,
Washington, D.C., August 27, 1970.

Mr. ROWLAND F. KIRKS,
Director, Administrative Office of United States Courts, Washington, D.C.

DEAR MR. KIRKS: Traditionally, our courts and the proceedings conducted under their auspices, have been characterized by dignity, decorum, and inviolability. Witnesses, jurors, attorneys, spectators and jurists alike have viewed the courtroom as a sanctum in which they were secure from the intrusion of violence and disorder.

In recent years there has seemingly been an unfortunate degeneration of those treasured traditions and with increasing frequency the sanctity of judicial processes are demeaned by the introduction of immoderate behavior and the offer of violence in the presence of the court. An ultimate outrage occurred recently when Superior Judge Harold J. Haley of San Rafael, California was kidnaped from the bench and murdered.

Understandably, members of our Federal bench have expressed grave concern over the safety of persons in their courtrooms and apprehension lest the objectivity of their proceedings be diluted by intimidation. It has been suggested that a larger number of United States Marshals Service personnel be provided in order to enhance security in the courts. Unfortunately, this is not a currently feasible solution since our limited Service personnel resources are already over-committed.

In an effort to identify an alternate solution, I am taking the liberty of suggesting that reappraisal of marshal utilization may be beneficial to many judicial districts. Specifically, I am addressing this suggestion to those courts in which the deputy marshal is required to be in attendance, even though there are no prisoners present, and the deputy performs duties ordinarily assigned a bailiff or crier. The application of Service resources to other than those tasks which require their specific talents and authority, diminishes Service capacity for providing essential security.

The marshal in each district has been instructed to assist the chief judge at his convenience, in identifying functional areas in which deputy participation can be reduced or eliminated in order to permit increased attention to court security in criminal proceedings.

I would appreciate your conveying my thoughts to the chief judges of the judicial districts.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

UNIFORM CRIME REPORTING—(JANUARY–MARCH 1970)

Crime in the United States, as measured by the Crime Index, increased 13 percent during the first three months of 1970 when

compared with the same period in 1969. The violent crimes as a group were up 12 percent. Robbery increased 15 percent, murder 13 percent, aggravated assault 8 percent, and forcible rape was up 6 percent. The voluminous property crimes rose 13 percent as a group. Larceny $50 and over in value was up 17 percent, burglary 12 percent, and auto theft 11 percent. Cities having 250,000 or more inhabitants experienced an average increase of 8 percent, suburban law enforcement agencies reported an 18 percent rise, and the rural areas were up 19 percent (Table 1). Geographically, the North Central and the Southern States reported increases of 17 percent in the Crime Index offenses. The Western States were up 15 percent and the Northeastern States had a 4 percent rise (Table 2). Armed robbery which makes up about two-thirds of all robbery offenses increased 17 percent during the three-month period, aggravated assaults committed with a firearm were up 12 percent, and street theft increased 14 percent.

TABLE 1.—CRIME INDEX TRENDS (JANUARY–MARCH, PERCENT CHANGE 1970 OVER 1969, OFFENSES KNOWN TO THE POLICE)

Population group and area	Number of agencies	Population in thousands	Total	Violent	Property	Murder	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny $50 and over	Auto theft
Total, all agencies	5,511	162,136	+13	+12	+13	+13	+6	+15	+8	+12	+17	+11
Cities over 25,000	827	90,190	+12	+12	+12	+15	+10	+14	+8	+11	+13	+11
Suburban area	2,014	47,352	+18	+13	+18	+28	−8	+24	+9	+14	+26	+12
Rural area	1,397	21,492	+19	+9	+20	+17	+1	+17	+9	+17	+29	+2
Over 1,000,000	6	19,537	+4	+11	+3	+23	+1	+14	+5	+3	−4	+12
500,000 to 1,000,000	21	13,576	+10	+8	+11	+2	+11	+10	+4	+13	+15	+4
250,000 to 500,000	31	11,047	+13	+12	+13	+30	+23	+12	+10	+10	+16	+16
100,000 to 250,000	90	13,388	+22	+19	+22	+11	+25	+25	+12	+21	+27	+17
50,000 to 100,000	246	17,223	+15	+12	+16	+1	−1	+17	+9	+14	+19	+11
25,000 to 50,000	433	15,420	+18	+21	+17	+33	+14	+24	+19	+13	+23	+14
10,000 to 25,000	1,076	17,132	+17	+12	+18	−19	+3	+17	+12	+12	+26	+15
Under 10,000	1,923	10,012	+18	+7	+19	+14	+10	+9	+5	+13	+27	+19

TABLE 2.—CRIME INDEX TRENDS BY GEOGRAPHIC REGION (JANUARY–MARCH, 1970 OVER 1969)

Region	Total	Violent	Property	Murder	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny $50 and over	Auto theft
Northeastern States	+4	+6	+4	+10	−4	+5	+8	+3	+4	+6
North Central States	+17	+19	+16	+25	+9	+25	+12	+12	+22	+16
Southern States	+17	+13	+18	+10	+6	+26	+4	+15	+25	+17
Western States	+15	+8	+16	+4	+10	+5	+12	+16	+20	+5

TABLE 3.—CRIME INDEX TRENDS

(January–March, percent change 1965–70, each year over previous year)

January–March	Total	Murder	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny $50 and over	Auto theft
1966/65	+6	+4	+14	+4	+9	+4	+11	+5
1967/66	+20	+23	+8	+32	+15	+21	+18	+20
1968/67	+17	+16	+19	+24	+13	+15	+19	+17
1969/68	+10	+7	+12	+22	+8	+4	+17	+11
1970/1969	+13	+13	+6	+15	+8	+12	+17	+11

Source: John Edgar Hoover, Director, Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. Advisory: Committee on Uniform Crime Records, International Association of Chiefs of Police.

TABLE 4.—OFFENSES KNOWN TO THE POLICE, JANUARY THROUGH MARCH 1969 AND 1970 CITIES OVER 100,000 IN POPULATION

	Murder, nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary, breaking or entering	Larceny $50 and over	Auto theft
Abilene, Texas:							
1969		1	2	5	173	133	28
1970		2	10	6	158	145	41
Akron, Ohio:							
1969	7	20	209	99	803	792	745
1970		24	204	92	798	1,007	791
Albany, N.Y.:							
1969	2	2	36	23	261	93	223
1970		3	45	19	429	117	191
Albuquerque, N. Mex.:							
1969	3	26	88	164	1,375	1,303	384
1970	3	22	144	170	1,216	1,096	463
Alexandria, Va.:							
1969	2	6	49	75	274	277	165
1970	1	8	66	80	285	365	118
Allentown, Pa.:							
1969	1	2	13	21	170	196	36
1970		1	15	32	191	178	64
Amarillo, Texas:							
1969		3	11	49	302	254	60
1970	3	2	23	39	429	365	117
Anaheim, Calif.:							
1969	1	10	62	15	634	535	159
1970	1	14	55	38	741	664	185
Arlington, Va.:							
1969	1	3	28	15	363	428	192
1970	6	4	55	18	322	481	165
Atlanta, Ga.:							
1969	35	39	226	266	2,163	1,242	998
1970	43	33	509	262	2,469	1,783	1,086
Austin, Tex.:							
1969	3	6	49	133	768	601	206
1970	7	13	64	182	837	200	231
Baltimore, Md.:							
1969	58	142	2,125	1,825	5,249	2,916	2,329
1970	47	119	2,336	1,536	4,287	2,979	2,548
Baton Rouge, La.:							
1969	6	11	57	77	836	441	252
1970	2	18	102	158	957	514	327
Beaumont, Tex.:							
1969	3	3	32	112	405	108	77
1970	5	5	25	117	459	130	67
Birmingham, Ala.:							
1969	16	12	89	301	1,044	1,237	488
1970	17	12	63	338	992	1,127	596
Boston, Mass.:							
1969	22	49	770	349	2,420	1,436	3,506
1970	7	72	706	393	2,552	1,556	3,548
Bridgeport, Conn.:							
1969	2	1	95	38	561	485	440
1970	5	5	114	56	796	807	553
Buffalo, N.Y.:							
1969	7	28	216	166	1,077	992	831
1970	8	35	312	188	1,471	1,197	1,190
Camden, N.J.:							
1969	4	5	72	45	455	127	393
1970	7	8	138	46	683	213	552
Canton, Ohio:							
1969	1	2	38	29	190	231	89
1970	4	8	72	23	191	322	116
Cedar Rapids, Iowa:							
1969	1	2	12	6	108	177	136
1970	1	2	4	7	150	151	97
Charlotte, N.C.:							
1969	6	24	92	511	941	595	244
1970	15	17	139	277	1,092	1,061	334

Footnotes at end of table.

TABLE 4.—OFFENSES KNOWN TO THE POLICE, JANUARY THROUGH MARCH 1969 AND 1970 CITIES OVER 100,000 IN POPULATION—Continued

	Murder, nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary, breaking or entering	Larceny $50 and over	Auto theft
Chattanooga, Tenn.:							
1969	6	2	98	38	566	107	360
1970	7	6	92	45	657	113	385
Chicago, Ill.:							
1969	121	291	4,374	2,453	8,128	4,037	6,175
1970	201	339	5,369	2,723	8,736	4,226	8,438
Cincinnati, Ohio:							
1969	13	39	185	150	1,156	817	372
1970	14	44	232	170	1,373	1,170	530
Cleveland, Ohio:							
1969	51	74	1,226	400	2,041	2,135	4,901
1970	60	79	1,496	408	2,796	1,381	5,158
Colorado Springs, Colo.:							
1969	3	10	50	33	387	366	114
1970	2	7	52	38	497	505	170
Columbia, S.C.:							
1969	7	6	63	93	552	256	245
1970	4	2	61	68	592	298	250
Columbus, Ga.:							
1969	6	3	33	16	220	128	129
1970	6	----	27	18	291	212	173
Columbus, Ohio:							
1969	9	51	313	150	1,874	1,442	974
1970	14	58	383	202	1,914	1,815	1,206
Corpus Christi, Tex.:							
1969	1	7	32	143	663	476	224
1970	9	10	92	149	1,077	826	337
Dallas, Tex.:							
1969	----	----	----	----	----	----	----
1970	59	96	769	849	5,296	4,114	1,952
Dayton, Ohio:							
1969	10	21	231	165	1,087	399	523
1970	19	19	329	188	1,420	878	474
Dearborn, Mich.:							
1969	4	3	31	13	217	342	211
1970	1	2	35	12	316	356	163
Denver, Colo.:							
1969	11	53	404	321	2,507	2,008	1,341
1970	23	111	473	376	3,589	2,655	2,129
Des Moines, Iowa:							
1969	----	10	60	22	317	438	141
1970	3	3	82	21	391	660	249
Detroit, Mich.:							
1969	88	199	3,737	1,020	9,420	4,451	4,841
1970	103	246	5,352	1,071	10,518	5,345	5,090
Duluth, Minn.:							
1969	----	2	18	6	183	161	112
1970	----	2	3	4	165	182	95
Elizabeth, N.J.:							
1969	----	11	51	62	551	197	330
1970	1	8	50	59	399	200	289
El Paso, Tex.:							
1969	1	6	55	112	989	516	484
1970	2	12	66	141	1,074	596	382
Erie, Pa.:							
1969	----	2	22	26	133	95	99
1970	----	8	54	18	232	145	85
Evansville, Ind.:							
1969	5	9	36	56	369	271	129
1970	4	10	41	49	396	478	176
Fall River, Mass.:							
1969	----	1	8	13	343	67	208
1970	----	1	21	12	416	153	371
Flint, Mich.:							
1969	6	14	146	294	734	837	185
1970	8	70	134	261	743	597	238
Fort Lauderdale, Fla.:							
1969	5	9	60	62	543	477	317
1970	5	10	115	74	825	841	287
Fort Wayne, Ind.:							
1969	4	7	35	17	375	502	123
1970	2	12	57	18	524	698	187
Fort Worth, Tex.:							
1969	25	9	202	128	1,552	465	690
1970	30	17	315	121	1,954	697	880
Garden Grove, Calif.:							
1969	1	4	48	23	451	533	93
1970	----	8	39	27	495	625	151
Gary, Ind.:							
1969	11	29	160	112	469	460	578
1970	10	14	231	103	826	486	1,075
Glendale, Calif.:							
1969	2	3	27	16	373	440	188
1970	----	7	40	21	409	393	194
Grand Rapids, Mich.:							
1969	3	15	49	101	692	293	195
1970	2	18	77	90	768	306	159
Greensboro, N.C.:							
1969	8	6	32	206	343	367	135
1970	4	4	56	193	528	451	139
Hammond, Ind.:							
1969	2	6	44	16	213	239	178
1970	3	7	54	43	195	279	299
Hampton, Va.:							
1969	2	4	18	17	197	183	47
1970	2	4	18	19	250	273	61
Hartford, Conn.:							
1969	3	5	116	100	713	401	489
1970	2	5	97	138	552	485	449
Honolulu, Hawaii:							
1969	1	15	50	20	1,491	1,129	734
1970	2	12	43	31	1,632	1,275	813
Houston, Tex.:							
1969	47	88	1,012	668	5,895	2,755	2,359
1970	72	83	1,573	606	6,486	2,761	3,397
Huntington Beach, Calif.:							
1969	1	3	21	19	260	352	80
1970	2	4	12	14	404	346	73
Huntsville, Ala.:							
1969	1	1	14	81	323	263	116
1970	----	5	38	53	481	487	109
Independence, Mo.:							
1969	----	6	6	26	164	148	55
1970	1	5	18	45	187	170	64
Indianapolis, Ind.:							
1969	16	43	438	170	2,176	1,093	1,138
1970	16	39	428	265	2,425	1,329	1,049
Jackson, Miss.:							
1969	7	6	20	24	300	213	90
1970	7	2	23	28	405	229	86
Jacksonville, Fla.:							
1969	17	34	344	474	2,149	1,116	575
1970	18	53	349	522	2,947	1,690	828
Jersey City, N.J.:							
1969	4	5	165	54	451	73	810
1970	5	6	132	61	363	58	905
Kansas City, Kans.:							
1969	5	16	109	91	808	220	475
1970	5	24	134	129	765	184	448
Kansas City, Mo.:							
1969	17	69	597	368	2,660	1,514	1,538
1970	33	83	669	409	2,894	1,601	1,281
Knoxville, Tenn.:							
1969	5	1	35	67	460	324	245
1970	4	2	48	100	571	280	277
Lansing, Mich.:							
1969	1	7	36	47	568	386	210
1970	3	7	51	48	718	690	155
Las Vegas, Nev.:							
1969	5	5	70	24	423	256	164
1970	7	7	70	45	480	310	238
Lincoln, Nebr.:							
1969	2	3	7	26	137	146	44
1970	----	3	12	57	140	340	77
Little Rock, Ark.:							
1969	4	8	61	123	610	747	89
1970	7	14	73	167	756	697	114
Livonia, Mich.:							
1969	----	2	9	17	246	129	68
1970	4	2	11	60	370	189	59
Long Beach, Calif.:							
1969	3	43	275	122	1,435	1,199	630
1970	3	40	310	100	1,633	1,054	777
Los Angeles, Calif.:							
1969	93	498	3,160	3,352	16,604	10,937	8,356
1970	88	493	3,247	3,565	16,940	11,535	8,283
Louisville, Ky.:							
1969	19	14	254	134	1,209	1,371	1,371
1970	21	16	300	182	1,368	1,362	1,411
Lubbock, Tex.:							
1969	1	9	13	41	652	444	63
1970	7	4	23	95	542	574	111
Macon, Ga.:							
1969	8	8	38	34	439	314	140
1970	5	5	51	53	639	478	176
Madison, Wis.:							
1969	----	4	11	4	179	281	101
1970	1	4	18	10	353	417	113
Memphis, Tenn.:							
1969	18	26	309	125	1,999	1,268	453
1970	18	22	279	240	2,143	1,698	703
Miami, Fla.:							
1969	17	24	658	565	1,876	1,244	752
1970	17	26	735	612	1,867	1,537	811
Milwaukee, Wis.:							
1969	10	22	142	151	1,029	1,418	896
1970	8	24	160	183	1,054	1,814	1,151
Minneapolis, Minn.:							
1969	5	20	356	122	1,877	1,049	1,002
1970	4	46	450	125	2,040	1,137	1,353
Mobile, Ala.:							
1969	10	6	71	137	1,101	423	201
1970	5	18	100	126	1,408	436	296
Montgomery, Ala.:							
1969	4	3	42	14	489	368	79
1970	5	2	56	13	383	417	117
Nashville, Tenn.:							
1969	16	24	221	274	1,496	1,088	819
1970	18	25	242	281	1,498	683	657
Newark, N.J.:							
1969	24	57	1,131	492	3,244	1,421	1,832
1970	28	58	1,040	429	2,536	1,256	1,592
New Bedford, Mass.:							
1969	----	4	32	23	345	186	325
1970	----	1	25	30	463	181	239
New Haven, Conn.:							
1969	----	19	26	92	739	304	520
1970	3	12	41	73	944	386	560

Footnotes at end of table.

	Murder, nonnegligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary, breaking or entering	Larceny $50 and over	Auto theft
New Orleans, La.:							
1969	16	69	574	492	1,990	2,040	1,366
1970	19	85	1,110	587	2,518	2,257	1,758
Newport News, Va.:							
1969	6	7	71	71	342	286	94
1970	5	8	24	63	464	395	101
New York, N.Y.:							
1969	237	536	15,632	6,347	43,450	30,881	18,672
1970	259	505	16,505	6,721	43,187	26,908	19,920
Norfolk, Va.:							
1969	11	15	234	197	1,230	922	370
1970	14	25	247	249	1,122	1,145	436
Oakland, Calif.:							
1969	17	53	871	223	3,780	1,157	1,577
1970	14	63	661	274	3,527	1,886	1,220
Oklahoma City, Okla.:							
1969	6	17	119	152	1,366	230	565
1970	6	27	133	210	1,403	492	585
Omaha, Nebr.:							
1969	6	17	121	188	780	480	444
1970	7	17	163	244	849	710	750
Orlando,[1] Fla.:							
1969							
1970		2	44	94	579	429	117
Pasadena, Calif.:							
1969	2	7	75	89	692	588	236
1970	2	31	99	65	862	451	277
Paterson, N.J.:							
1969	1	7	103	46	458	80	260
1970	1	3	127	52	585	104	575
Peoria, Ill.:							
1969	2	8	74	77	455	295	120
1970	4	4	99	123	514	311	158
Philadelphia, Pa.:							
1969	62	126	1,329	818	3,611	799	1,709
1970	72	98	1,416	769	4,043	1,150	3,012
Phoenix, Ariz.:							
1969	10	30	250	274	2,343	1,534	887
1970	15	43	357	412	3,467	1,884	1,082
Pittsburgh, Pa.:							
1969	11	53	837	317	2,375	2,046	2,428
1970	14	52	639	371	2,140	1,699	2,221
Portland, Oreg.:							
1969	6	24	236	139	1,662	1,508	619
1970	9	34	466	218	2,290	1,857	970
Portsmouth, Va.:							
1969	1	4	63	46	478	210	133
1970	3	----	85	39	415	303	155
Providence, R.I.:							
1969	5	----	78	66	835	374	887
1970	1	3	107	76	818	275	898
Pueblo, Colo.:							
1969		2	9	23	169	250	68
1970		6	14	47	195	239	115
Raleigh, N.C.:							
1969	5	2	21	93	198	342	83
1970	7	4	44	93	279	498	71
Reading, Pa.:							
1969		6	17	25	150	89	82
1970		3	20	21	214	109	58
Richmond,[2] Va.:							
1969							
1970	6	23	197	113	1,539	1,128	662
Riverside, Calif.:							
1969		6	53	66	851	524	213
1970		10	60	83	980	561	203
Roanoke, Va.:							
1969	4	1	33	34	338	189	133
1970	2	3	33	63	425	261	192
Rochester, N.Y.:							
1969	9	15	47	115	663	859	260
1970	10	5	101	128	929	929	365
Rockford, Ill.:							
1969	1	5	40	22	361	287	131
1970	5	2	39	55	322	313	122
Sacramento, Calif.:							
1969	5	11	137	63	1,021	863	518
1970	5	26	156	100	1,067	1,101	531
Saginaw, Mich.:							
1969	3	2	53	42	263	89	85
1970	7	5	53	60	390	110	76
St. Louis, Mo.:							
1969	64	133	1,098	676	4,374	933	2,761
1970	66	111	1,191	659	4,519	918	3,124
St. Paul, Minn.:							
1969	3	11	214	81	1,223	598	785
1970	6	13	294	129	1,417	718	949
St. Petersburg, Fla.:							
1969	3	12	108	144	746	443	112
1970	6	11	193	162	933	600	131
Salt Lake City, Utah:							
1969	2	4	66	43	770	766	320
1970	1	13	100	76	1,087	1,011	377
San Antonio, Tex.:							
1969	23	34	208	441	2,973	1,610	1,307
1970	66	50	208	374	3,466	1,708	1,286
San Bernardino, Calif.:							
1969	2	3	64	35	532	676	213
1970	2	3	94	47	629	614	261
San Diego, Calif.:							
1969	8	31	180	157	1,232	2,100	804
1970	5	27	197	212	1,537	2,620	1,011
San Francisco, Calif.:							
1969	30	112	1,771	786	4,783	1,432	4,830
1970	30	164	1,358	713	4,557	2,197	3,795
San Jose, Calif.:							
1969		37	81	93	1,470	561	599
1970	1	42	134	186	1,808	581	898
Santa Ana, Calif.:							
1969	3	4	53	40	496	232	167
1970	5	13	46	63	818	226	177
Savannah, Ga.:							
1969	5	12	75	78	496	409	124
1970	8	7	62	38	545	537	147
Scranton, Pa.:							
1969			6	22	152	131	113
1970	1	2	4	25	112	118	68
Seattle, Wash.:							
1969	21	62	599	329	3,235	2,178	1,408
1970	10	72	514	200	4,241	2,305	1,021
Shreveport, La.:							
1969	13	1	24	160	416	192	144
1970	12	6	46	155	504	279	192
South Bend:							
1969	2	2	79	24	262	210	137
1970	2	2	93	28	326	291	119
Spokane, Wash.:							
1969		2	27	10	359	296	109
1970	1	6	42	20	680	652	127
Springfield, Mass.:							
1969	1	5	15	28	481	303	666
1970	2	4	8	74	700	281	665
Springfield, Mo.:							
1969	1	----	10	12	179	226	29
1970	1	----	11	4	454	295	56
Syracuse, N.Y.:							
1969	1	8	96	70	486	385	119
1970	6	8	69	50	555	532	124
Tacoma, Wash.:							
1969		12	67	65	533	370	223
1970	4	13	52	71	662	500	254
Tampa, Fla.:							
1969	8	11	227	223	1,454	955	339
1970	17	10	225	241	1,689	1,250	373
Toledo, Ohio:							
1969	3	17	164	78	741	812	377
1970	5	22	172	70	1,012	934	330
Topeka, Kans.:							
1969	3	4	54	70	313	392	50
1970		5	34	89	313	632	60
Torrance, Calif.:							
1969	1	9	42	19	451	550	201
1970		5	38	10	446	544	188
Trenton, N.J.:							
1969	4	8	114	42	544	198	226
1970	7	7	138	45	813	412	302
Tucson, Ariz.:							
1969	1	12	59	80	687	442	298
1970	7	12	74	100	879	596	414
Tulsa, Okla:							
1969	3	19	98	100	776	1,003	304
1970	5	17	91	116	1,003	1,288	517
Utica, N.Y.:							
1969	3	1	15	1	129	45	25
1970	1	1	15	4	102	21	35
Virginia Beach, Va.:							
1969	2	4	17	37	271	273	52
1970	3	3	10	44	239	481	53
Waco, Tex.:							
1969	6	6	15	62	350	249	54
1970	2	2	38	62	487	296	85
Warren, Mich.:							
1969		6	33	51	395	410	168
1970	1	5	51	51	392	483	162
Washington, D.C.:							
1969	63	77	2,788	707	4,872	2,177	2,098
1970	64	53	3,076	952	6,175	2,800	2,431
Waterbury, Conn.:							
1969	2	1	41	8	329	218	207
1970	1	1	45	26	347	199	220
Wichita, Kans.:							
1969	1	11	76	76	778	778	179
1970	5	7	79	97	1,086	886	369
Wichita Falls, Tex.:							
1969	4	1	10	27	152	58	29
1970	3	1	14	32	159	108	46
Winston-Salem, N.C.:							
1969	9	5	23	236	412	270	130
1970	3	6	61	198	446	475	125
Worcester, Mass.:							
1969	1	4	53	13	1,004	252	881
1970	1	2	55	24	999	432	887
Yonkers, N.Y.:							
1969		1	56	51	429	493	328
1970	3	----	77	34	510	611	322
Youngstown, Ohio:							
1969	5	6	87	55	492	110	241
1970	5	8	124	59	457	251	506

[1] 1969 figures not comparable with 1970, and are not used in trend tabulations. Agency reports which are determined to be influenced by a change in reporting practices, for all or specific offenses are removed from trend tables. All 1970 crime figures from reporting units are preliminary. Final figures and crime rates per unit of population are not available until the annual publication. Trends in this report are based on the volume of crimes reported by comparable units.

[2] Crime counts influenced in part by annexation 1970.

STANDARDS FOR FLAMMABLE FABRICS

The SPEAKER pro tempore (Mr. McFALL). Under previous order of the House, the gentleman from Georgia (Mr. DAVIS) is recognized for 10 minutes.

Mr. DAVIS of Georgia. Mr. Speaker, my responsibilities on the Committee on Science and Astronautics have provided me with a vantage point from which to view many of the scientific activities of our Government.

As chairman of the Subcommittee on the National Bureau of Standards, I have had an unusual opportunity to familiarize myself with much of the fine work done by that organization particularly in the area of standards and tests.

It is with this background that I view with deep apprehension a tendency in some agencies of Government to set themselves up as scientific arbiters of standards and test methods without reference to the superior experience and talents available to the Government through the National Bureau of Standards.

Mr. Speaker, the American taxpayer supports the National Bureau of Standards with appropriations designed to gather to that organization the best scientists available for the broad area of work in which it engages. In fiscal 1970 the American taxpayer invested $39,687,000 in the activities of the Bureau.

Certainly no one will contend that elsewhere in our Government are there scientists more competent in standards and test methods on materials with which the National Bureau of Standards concerns itself.

It is for this reason, as my colleagues well know, that responsibility for developing test methods and standards for flammable fabrics was placed in the Department of Commerce, of which the National Bureau of Standards is an operating arm.

Pursuant to its responsibility under the act, the Bureau of Standards developed a test method and flammability standard for carpet and I am advised, by the way, that the carpet and rug industry voluntarily commenced a program with the National Bureau of Standards to develop a Federal flammability standard even before the Department of Commerce announced its findings of a need for such a standard.

Only recently, Mr. Speaker, officials of the Department of Commerce acknowledged that carpet was not high on the priority list of fabrics requiring attention because of their inherent flammability. The fact is that until an unfortunate nursing home fire in Marietta, Ohio, last January, carpet was almost singularly free of responsibility for fire injuries or deaths.

Calvin H. Yill, manager of the first research section of the Southwest Research Institute, San Antonio, Tex., one of the Nation's foremost authorities on fire technology, stated in an article in the journal Fire and Flammability, as recently as last January that—

> Less than a dozen incidents have been reported where floor coverings have been a factor in early spread of fire.

More recently, recognized authorities have pointed out that the absence of sprinkler and early fire warning systems in the Marietta, Ohio, fire were the real cause of the tragedy there and that the finger of responsibility was pointed at carpet only because basic fire safety precautions were absent.

I refer to this simply so that my colleagues may better understand my concern regarding recent actions by the Department of Health, Education, and Welfare.

In 1968, the Public Health Service, in apparent realization that its position in requiring such a test for carpet was untenable, asked for bids on a new test method. It stated then that—

> The investigation should specifically require that the material to be tested shall be located in a normal on-the-floor position.

In commenting on the Public Health Service invitation to bid, G. T. Castino, engineering group leader, fire protection department, Underwriters' Laboratories, stated:

> The Public Health Service requested the project because the Steiner tunnel test used for the measurement of flame spread and smoke generation in building materials is unrealistic for testing carpeting.

Notwithstanding the clear nonapplicability of the Steiner tunnel test to carpet, Mr. Speaker, the Department of Health, Education, and Welfare on September 2 issued a new proposed regulation for nursing homes and hospitals. Again it included the discredited Steiner tunnel test. This time, however, it also provided for an alternative type of tunnel test which has been referred to as a "chamber" test. This is the test being developed under a $10,000 Public Health Service contract. It has not had the benefit of interlaboratory testing. It does not have the benefit of accreditation by the American Society for Testing and Materitals, always considered a prerequisite for an accepted test method. It does not test smoke or poisonous gases which are products of combustion, and which constitute the real culprit in most fires.

But more important, Mr. Speaker, despite the large funds expended to maintain scientific excellence in this field at the National Bureau of Standards, the Bureau, I am advised was not even accorded the respect of being consulted as to the validity of the new test.

It is beyond my comprehension why a department of Government with all of the resources of the excellent staff of the National Bureau of Standards available to it, would issue a proposed regulation in the area of standards and tests without enlisting the counsel of the Bureau.

I cannot understand why a department would issue a proposed regulation combining a discredited test and one which has not been accredited at all.

There are, Mr. Speaker, established procedures for accrediting test methods. In this case that procedure requires interlaboratory testing and approval by the American Society for Testing and Materials.

The Secretary of Health, Education, and Welfare will have another opportunity to review this proposed regulation before it is formally adopted. I trust, Mr. Speaker, that better judgment will prevail at that time.

Meanwhile, I will direct my attention to developing proposals which will require that agencies of Government consult the National Bureau of Standards in the future on all areas of its specialized competence so that miscarriages of justice such as that in the proposed HEW regulation will not occur again.

Another possibility, which I am exploring, Mr. Speaker, is to inquire into unnecessary overlapping of personnel in the field of testing and standards.

Certainly, we must not back away from adequate public protection, Mr. Speaker. Also, however, we should not waste Government funds by failing to use competent scientific personnel at our disposal. And we must not, in the name of public protection, do unnecessary injustice to an industry which contributes substantially to our economy, particularly when proposed regulations may not offer the protection which the public has a right to assume they afford.

SAFE AND HEALTHFUL EMPLOYMENT FOR AMERICAN WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin, Mr. STEIGER is recognized for 30 minutes.

Mr. STEIGER of Wisconsin. Mr. Speaker, on June 16, the House Labor and Education Committee voted to report H.R. 16785, a bill to assure safe and healthful employment for American workers.

While the committee bill is not without its good points it has serious deficiencies and, unfortunately, these defects are of such nature that they jeopardize the very foundation of our comprehensive national effort to reduce job hazards. The bill fails to provide a fair and balanced administrative structure for properly mobilizing a national program and eliciting the best efforts of both employers and employees toward making working conditions safe and healthful.

Today I am joining with the distinguished gentleman from Florida (Mr. SIKES) in introducing a bill which incorporates the better features of the reported bill but includes new provisions designed to correct the serious deficiencies of the committee bill.

Mr. Speaker, I realize it is late in the session, but if we sincerely desire to see the enactment of any effective occupational safety and health legislation, I earnestly urge favorable consideration of the bill we are introducing. This bill has been carefully drafted and reflects what reasonable men can produce when they cast aside partisan politics and agree to overcome their differences in the interest of worthwhile legislation acceptable to a majority of other reasonable men and not merely to a "majority" in any narrow political sense.

The most serious criticism of H.R. 16785 is that it would vest all the functions under that bill in the Secretary of Labor.

The bill we offer overcomes this criticism by breaking up this monopoly of functions and distributing them in order to achieve the necessary balance to which I just referred. The new bill would establish a separate and independent Occupational Safety and Health Board whose five members would be appointed by the President. The sole function of this Board would be to set standards; it would not adjudicate cases of alleged violation. This Board could use advisory committees in the standard-setting procedures as the Secretary could do under the committee bill. But the committee bill makes the use of these advisory committees mandatory. I believe that requiring their use can be time consuming particularly when coupled with mandatory time periods within which these committees are permitted to develop their recommendations. Therefore, in this bill, the Board's use of these committees is discretionary; they would be enlisted only where they can make a real contribution. The members of the Board would serve at the President's pleasure.

Another fault of the committee is its lack of flexibility in regard to developing any standards that are needed right away. The committee bill requires a hearing before any standards can be promulgated regardless of how urgently needed those standards may be. The measure I offer provides that where there is grave danger to workers resulting from toxic substances and new processes, the Board can promulgate emergency temporray standards immediately without regard to procedures under the Administrative Procedure Act. However, as soon as these temporary emergency standards are adopted, the bill I am introducing requires the Board to commence APA hearings to replace them with permanent standards.

Also, this bill provides for those particular needs we shall face in the early and crucial days of the new law. We are going to need, right away, a foundation upon which to build. The new bill improves on H.R. 16785 by providing that national consensus standards and already existing Federal standards can be adopted by the Board immediatly without invoking APA procedures. Again, of course, the bill provides that such standards will be replaced by permanent ones set through the use of formal APA hearings.

These twin provisions—the early and quick adoption of emergency temporary standards and of existing standards—are substantial improvements over the commitee-reported bill.

Under the committee bill the Secretary of Labor, in addition to setting standards, would enforce those standards; and he, again, would be the one to issure corrective orders along with assessing penalties. Therefore, to avoid turning the Secretary into prosecutor, judge, and jury, the bill we are introducing would set up a separate independent Occupational Safety and Health Appeals Commission for the purpose of adjudicating cases of alleged violations brought before it by the Secretary of Labor.

Our bill would also overcome another serious criticism of the committee bill; namely, that its general safety requirement is too broad and vague in its mandate that employers maintain safe and healthful working conditions. It does so by simply making that requirement more specific by requiring employers to maintain working conditions which are free "from any hazards which are readily apparent and are causing or likely to cause death or serious physical harm." It is grossly unfair to require employers to supply every conceivable safety and health need for which no specific standards exist to guide them. So by limiting this "general duty" requirement to apparent dangers, the new bill overcomes this element of unfairness but at the same time provides protection in serious situations which may not be covered by a precise standard.

The concept of issuing citations is a sound proposal, but the committee bill goes about it in too complicated a way. It is difficult to understand why the reported bill ties citations to "serious danger" in some cases and not in others. The new bill simplifies all this by requiring the Secretary to issue a citation in every instance where the act is violated, unless, of course, it is de minimis.

The bill also overcomes the controversy over applying penalties to only willful violations. The new bill provides civil penalties of up to $10,000 for each willful or repeated violation of the act; and where willfulness is not an element, a civil penalty of up to $1,000 for any violation.

The last controversial point which the bill would eliminate is the one involving an inspector's right to close down a plant operation "on the spot" where an imminent danger exists. The bill would leave this up to the district courts. In any event, it is always the possibility of ultimate resort to the courts which brings about compliance with any stopwork order, so by expressly providing that the courts do this in the first place is a reasonable provision.

Mr. Speaker, these are some of the highlights of this bill we are introducing today. This bill was drafted in the spirit of overcoming differences which divide us. Much of the bill we are introducing is similar to the committee bill. But the new provisions I have just outlined are vital to this legislation. We cannot expect to have genuinely effective legislation if we do not provide a balanced structure for carrying out its provisions.

This new bill is almost identical to a substitute offered in the Committee on Education and Labor by the distinguished gentleman from Maine (Mr. HATHAWAY) and myself. It was turned down by a vote of 15 to 19. This substitute will be offered on the floor because I believe the deficiencies in H.R. 16785 are so great that a new approach is needed. The Hathaway-Steiger substitute when it was offered in the committee was a compromise designed to attract bipartisan support so that a bill which was effective could be passed by the House.

I am pleased that the able gentleman from Florida (Mr. SIKES) has agreed to join in sponsoring this legislation. When H.R. 16785 comes to the floor Mr. Sikes and I will offer this bill in a bipartisan effort to pass an effective, fair, and enforceable health and safety bill in this session of the Congress.

At this point, Mr. Speaker, I want to include a copy of the substitute, a section-by-section analysis, a comparison of H.R. 16785 with the substitute, and the minority views as contained in the report accompanying H.R. 16785—Report No. 91–1291—which detail the serious weaknesses of the committee bill and the reasons why the House should adopt H.R. 19200, the substitute bill being introduced today. The material referred to follows:

H.R. 19200

A bill to assure safe and healthful working conditions for working men and women; by providing the means and procedures for establishing and enforcing mandatory safety and health standards; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act."

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses and disability compensation payments.

(b) The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources—

(1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions.

(2) by providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;

(3) by creating a National Occupational Safety and Health Board to be appointed by the President for the purpose of setting mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an occupational Safety and Health Appeals Commission for carrying out adjudicatory functions under the Act;

(4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;

(5) by providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques and approaches for dealing with occupational safety and health problems;

(6) by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research re-

lating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;

(7) by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;

(8) by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;

(9) by providing for the development and promulgation of occupational safety and health standards;

(10) by providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual violating this prohibition;

(11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith;

(12) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem;

(13) by enouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Labor.

(2) The term "Safety and Health Appeals Commission" means the Occupational Safety and Health Appeals Commission established under section 12 of this Act.

(3) The term "Board" means the National Occupational Safety and Health Board established under section 8 of this Act.

(4) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than a State as defined in paragraph (8) of this subsection), or between points in the same State but through a point outside thereof.

(5) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(6) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(7) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(8) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(9) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(10) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (a) has been adopted and promulgated by a nationally recognized public or private standards-producing organization possessing technical competence and under a consensus method which involves consideration of the views of the interested and affected parties and (b) has been designated by the Board, after consultation with other appropriate Federal agencies.

(11) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

APPLICABILITY OF ACT

SEC. 4. This Act shall apply only with respect to employment performed in a workplace in a State, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnston Island, or the Canal Zone, except that this Act shall not apply to any vessel under way on the Outer Continental Shelf lands. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no Federal district courts having jurisdiction.

DUTIES OF EMPLOYERS

SEC. 5. Each employer—

(a) shall furnish each of his employees employment and a place of employment which are free from any hazards which are readily apparent and are causing or are likely to cause death or serious physical harm to his employees;

(b) shall comply with occupational safety and health standards promulgated under this Act.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 6(a). The National Occupational Safety and Health Board established under section 8 of this Act is authorized to promulgate rules prescribing occupational safety and health standards in accordance with sections 556 and 557 of title 5, United States Code.

(b) Without regard to the provisions of sections 553, 556, and 557, title 5, United States Code, the Board shall, as soon as practicable, but in no event later than three years after the date of enactment of this Act, by rule promulgate as an occupational safety and health standard, any national consensus standard or any established Federal standard, unless it determines that the promulgation of such a standard as an occupational safety and health standard would not result in improved safety or health for affected employees. In the event of conflict among such standards, the Board shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees. Such national consensus standard or established Federal standard shall take effect immediately upon publication and remain in effect until superseded by a rule promulgated pursuant to subsection (a) of this section.

(c)(1) Whenever the Board promulgates any standard, makes any rule, order, decision, grants any exemption or extension of time, it shall include a statement of the reasons for such action, and such statement shall be published in the Federal Register; and

(2) Whenever a rule issued by the Board differs substantially from an existing national consensus standard, the Board shall include in the rule issued a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

(d) Any agency may participate in the rulemaking under this section.

(e) The Secretary of Labor (with respect to safety issues) or the Secretary of Health, Education, and Welfare (with respect to health issues) may submit a request to the Board at any time to establish or modify occupational safety and health standards indicated in the request. Within 60 days from the receipt of the request, the Board shall commence proceedings under this section.

(f) Any interested person may also submit a request in writing to the Board at any time to establish or modify occupational safety and health standards. The Board shall give due consideration to such request and may commence proceedings under this section on the basis of such request.

(g) If, prior to the publication of the rule, an interested person or agency which submitted written data, views, or arguments makes application to the Board for leave to adduce additional data, views, or arguments and such person or agency shows to the satisfaction of the Board that additions may materially affect the result of the rulemaking procedure and that there were reasonable grounds for failure to adduce such additions earlier, the Board may receive and consider such additions.

(h) In determining the priority for establishing standards under this section, the Board shall give due regard to the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workpieces or work environments. The Board shall also give due regard to the recommendations of the Secretary and the Secretary of Health, Education, and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards.

(i)(1) The Board shall provide without regard to requirements of Ch. 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if it determines (A) that employees are exposed to grave danger from exposure to substances determined to be toxic or from new hazards resulting from the introduction of new processes, and (B) that such emergency standard is necessary to protect employees from such danger.

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register the Board shall commence a hearing in accordance with sections 556 and 557 of title 5, United States Code, and the standard as published shall also serve as a proposed rule for the hearing. The Board shall promulgate a standard under this paragraph no later than six months after publication of the emergency temporary standard as provided in paragraph (2) of this subsection.

(j)(1) Whenever the Board upon the basis of information submitted to it in writing by an interested person (including a representative of an organization of employers or employees, or a nationally recognized standards-producing organization) or by the Secretary or the Secretary of Health, Education, and Welfare, a State or a political subdivision of a State, or on the basis of information otherwise available to it, determines that a rule should be prescribed under subsection (a) of this section, the Board may appoint an advisory committee as provided for in section 7(e) of this Act, which shall submit recommendations to the Board regarding the rule to be prescribed which will carry out the purposes of this Act, which recommendations shall be published by the Board in the Federal Register, either as part of a subsequent notice of proposed rulemaking or separately. The recommendations of an advisory committee shall be submitted to the Board within two hundred and seventy days from its appointment, or within such longer or shorter period as may be prescribed by the Board, but in no event may the Board pre-

scribe a period which is longer than one year and three months.

(2) After the submission of such recommendations, the Board shall, as soon as practicable and in any event within four months, schedule and give notice of a hearing on the recommendations of the advisory committee and any other relevant subjects and issues. In the event that the advisory committee fails to submit recommendations within two hundred and seventy days from its appointment (or such longer or shorter period as the Board has prescribed) the Board shall make a proposal relevant to the purpose for which the advisory committee was appointed, and shall within four months schedule and give notice of hearing thereon. In either case, notice of the time, place, subjects, and issues of any such hearing shall be published in the Federal Register thirty days prior to the hearing and shall contain the recommendations of the advisory committee or the proposal made in absence of such recommendation. Prior to the hearing interested persons shall be afforded an opportunity to submit comments upon any recommendations of the advisory committee or other proposal. Only persons who have submitted such comments shall have a right at such hearing to submit oral arguments, but nothing herein shall be deemed to prevent any person from submitting written evidence, data, views, or arguments.

(k) The Board shall within sixty days (where an advisory committee is utilized) or 120 days (where no advisory committee is utilized) after completion of the hearing held pursuant to section 6(a) issue a rule promulgating, modifying, or revoking an occupational safety and health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period (not in excess of ninety days) as the Board determines may be appropriate to insure that affected employers are given an opportunity to familiarize themselves and their employees with the requirements of the standard.

(1) Any affected employer may apply to the Board for a rule or order for an exemption from the requirements of section 5(b) of this Act. Affected employees shall be given notice by the employer of each such application and an opportunity to participate in a hearing. The Board shall issue such rule or order if it determines on the record, after an opportunity for an inspection and a hearing, that the proponent of the exemption has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Board on its own motion in the manner prescribed for its issuance at any time after six months after its issuance.

(m) Standards promulgated under this section shall prescribe the posting of such labels or warnings as are necessary to apprise employees of the nature and extent of hazards and of the suggested methods of avoiding or ameliorating them.

ADVISORY COMMITTEES

SEC. 7. (a) There is hereby established a National Advisory Committee on Occupational Safety and Health (hereafter in this section referred to as the "Committee") consisting of twelve members appointed by the Secretary, four of whom are to be designated by the Secretary of Health, Education, and Welfare, without regard to the civil service laws and composed equally of representatives of management, labor and the public. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

(b) The Committee shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

(c) The members of the Committee shall be compensated in accordance with the provisions of subsection 8(g) of this Act.

(d) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

(e) An advisory committee which may be utilized by the Board in its standard-setting functions under section 6 of this Act shall consist of not more than fifteen members and shall include as a member one or more designees of the Secretary of Health, Education, and Welfare, and also as a member one or more designees of the Secretary of Labor and shall include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States. An advisory committee may also include such other persons as the Board may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards-producing organizations, but the number of persons so appointed to any advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated in the same manner as consultants or experts under section 8(g) of this Act. The Board shall pay to any State which is the employer of a member of such committee who is a representative of the health or safety agency of that State, reimbursement sufficient to cover the actual cost to the State resulting from such representative's membership on such committee. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

NATIONAL OCCUPATIONAL SAFETY AND HEALTH BOARD

SEC. 8. (a) The National Occupational Safety and Health Board is hereby established. The Board shall be composed of five members, having a background either by reason of previous training, education or experience in the field of occupational safety or health, who shall be appointed by the President by and with the consent of the Senate, and shall serve at the pleasure of the President. One of the five members may be designated at any time by the President to serve as Chairman of the Board.

(b) Subchapter II (relating to executive schedule pay rates) of chapter 53 of title V of the United States Code is amended as follows:

(1) Section 5314 (5 U.S.C. 5314) is amended by adding at the end thereof the following: "(54) Chairman, National Occupational Safety and Health Board."

(2) Section 5315 (5 U.S.C. 5315) is amended by adding at the end thereof the following: "(92) Members, National Occupational Safety and Health Board."

(c) The principal office of the Board shall be in the District of Columbia. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the Secretary of the Board.

(d) The Chairman of the Board shall, without regard to the civil service laws, appoint and prescribe the duties of a Secretary of the Board.

(e) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board, and shall appoint, in accordance with the civil service laws, such officers, hearing examiners, agents, attorneys, and employees as are deemed necessary and to fix their compensation in accordance with the Classification Act of 1949, as amended.

(f) Three members of the Board shall constitute a quorum.

(g) The Board is authorized to employ experts, advisors, and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(h) To carry out its functions under this Act, the Board is authorized to issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(i) The Board may order testimony to be taken by deposition in any proceeding pending before it at any stage of such proceeding. Reasonable notice must first be given in writing by the Board or by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (j) of this section. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(j) In the case of contumacy by, or refusal to obey a subpoena served upon any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(k) The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings.

DUTIES OF THE SECRETARY—INSPECTIONS, INVESTIGATIONS, AND REPORTS

SEC. 9. (a) In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter without delay and at reasonable times any factory, plant, establishment,

construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

(2) to question any such employee and to inspect and investigate during regular working hours and at other reasonable times and within reasonable limits and in a reasonable manner, any such area, workplace, or environment, and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein.

(b) If the employer, or his representative, accompanies the Secretary or his designated representative during the conduct of all or any part of an inspection, a representative authorized by the employees shall also be given an opportunity to do so.

(c) Each employer shall make, keep, and preserve for such period of time, and make available to the Secretary such record of his activities concerning the requirements of this Act as the Secretary may prescribe by regulation or order as necessary or appropriate for carrying out his duties under this Act.

(d) In making his inspections and investigations under this Act the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy, failure, or refusal of any person to obey such an order, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(e) In carrying out his responsibilities under this Act, the Secretary is authorized to—

(1) use, with the consent of any Federal agency, the services, facilities, and employees of such agency with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or subdivision with or without reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS–18 in section 5332 of title 5, United States Code, including travel time, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(3) delegate his authority under subsection (a) of this section to any agency of the Federal Government with or without reimbursement and with its consent to any State agency or agencies designated by the Governor of the State and with or without reimbursement and under conditions agreed upon by the Secretary and such State agency or agencies.

(f) Any information obtained by the Secretary, the Secretary of Health, Education, and Welfare, or a State agency under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

(g) The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment.

(h) There are hereby authorized to be appropriated such sums as the Congress shall deem necessary to enable the Secretary to purchase equipment which he determines as necessary to measure the exposure of employees to working environments which might cause cumulative or latent ill effects.

CITATIONS AND SAFETY AND HEALTH APPEALS COMMISSION HEARINGS

SEC. 10. (a) If, upon the basis of an inspection or investigation, the Secretary believes that an employer has violated the requirements of section 5, 6, or 9(c) of this Act, or subsection (e) of this section, or regulations prescribed pursuant to this Act, he shall issue a citation to the employer unless the violation is *de minimis*. This citation shall be in writing and describe with particularity the nature of the violation, including a reference to the requirement, standard, rule, order or regulation alleged to have been violated.

(b) In addition, the citation shall include—

(1) the amount of any proposed civil penalties; and

(2) a reasonable time within which the employer shall correct the violation.

(c) The Secretary shall issue each citation within 45 days from the occurrence of the alleged violation but for good cause the Secretary may extend such period up to a maximum of 90 days from such occurrence.

(d) If an employer notifies the Secretary that he intends to contest a citation issued under this section, the Secretary shall notify the Safety and Health Appeals Commission of the employer's intention and the Safety and Health Appeals Commission shall afford the employer an opportunity for a hearing as provided in section 11 of this Act. However, if the employer fails to notify the Secretary within 15 days after the receipt of the citation of his intention to contest the citation issued by the Secretary, the citation shall, on the day immediately following the expiration of the 15-day period, become a final order of the Safety and Health Appeals Commission.

(e) Each employer who receives a citation under this section shall prominently post such citation or copy thereof at or near each place a violation referred to in the citation occurred.

(f) No citation may be issued under this section after the expiration of three months following the occurrence of any violation.

(g) Whenever the Secretary compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action, and such statement shall be published in the Federal Register.

OCCUPATIONAL SAFETY AND HEALTH APPEALS COMMISSION

SEC. 11. A. ORGANIZATION AND JURISDICTION.—

(1) STATUS.—The Occupational Safety and Health Appeals Commission is hereby established as an independent agency in the Executive Branch of the Government. The members thereof shall be known as the Chairman of the Commission and the Commissioners of the Occupational Safety and Health Appeals Commission.

(2) JURISDICTION.—The Commission shall have such jurisdiction as is conferred on it by this Act.

(3) MEMBERSHIP.—(a) The Commission shall be composed of three Commissioners, appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(b) The salary of the Chairman of the Commission shall be equal to that provided for the executive level in section 5314, title 5, United States Code, and the salary of the remaining two Commissioners shall be in accordance with the executive level as provided in section 5315, title 5, United States Code.

(c) The terms of office of the Commissioners shall be as follows: one Commissioner shall be appointed for a term of two years, one Commissioner shall be appointed for a term of four years, and the remaining Commissioner for a term of six years, respectively. Their successors shall be appointed for terms of six years each, except that vacancy caused by death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term. A commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(d) A Commissioner removed from office in accordance with the provisions of this section shall not be permitted at any time to practice before the Commission.

(4) ORGANIZATION.—(a) The Commission shall have a seal which shall be judicially noticed.

(b) The President may at any time designate one of the three Commissioners to serve as Chairman of the Commission.

(c) A majority of the Commissioners shall constitute a quorum for the transaction of the Commission's business. A vacancy shall not impair its powers nor affect its duties.

(d) The principal office of the Commission shall be in the District of Columbia, but it may sit at any place within the United States giving due consideration to the expeditious conduct of its proceedings and the convenience of the parties.

(5) HEARING EXAMINERS.—(a) The Commission may appoint hearing examiners to conduct such business as the Commission may require. Each hearing examiner shall be an attorney at law and shall be selected from the Civil Service Commission list of individuals eligible for selection as administrative hearing examiners.

(b) Except as otherwise provided in this Act, the hearing examiners shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to 5 U.S.C. 5108. Each hearing examiner will receive compensation at a rate not less than the GS–16 level.

B. PROCEDURE.—

(1) REPRESENTATION OF PARTIES.—The Secretary or his delegate shall be represented by the Solicitor of Labor or his delegate before the Commission. The respondent shall be represented in accordance with the rules of practice prescribed by the Commission.

(2) RULES OF PRACTICE, PROCEDURE, AND EVIDENCE.—The proceedings of the Commission shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Commission may prescribe and in accordance with the rules of evidence applicable in trials without a jury in the United States District Court of the District of Columbia.

(3) SERVICE OF PROCESS.—The mailing by certified mail or registered mail of any pleading, decision, order, notice or process in respect of proceedings before the Commission shall be held sufficient service of such pleading, decision, order, notice, or process.

(4) ADMINISTRATION OF OATHS AND PROCUREMENT OF TESTIMONY.—For the efficient administration of the functions vested in the Commission any Commissioner of the Commission, the clerk of the Commission, or any other employee of the Commission designated in writing for the purpose by the Chairman of the Commission, may administer oaths, and any Commissioner may examine witnesses and require, by subpoena ordered by the Commission and signed by the Commissioner (or by the Secretary of the Commission or by any other employee of the Commission when acting under authority from the Secretary of the Commission—

(a) The attendance and testimony of wit-

nesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or

(b) The taking of a deposition before any designated individual competent to administer oaths under this title. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

(5) WITNESS FEES.—(a) Any witness summoned or whose deposition is taken shall receive the same fees and mileage as witnesses in courts of the United States.

(b) Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

(A) In the case of witnesses for the Secretary or his delegate, such payments shall be made by the Secretary or his delegate out of any moneys appropriated for the enforcement of this Act and may be made in advance.

(B) In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Commission, by the party at whose instance the witness appears or the deposition is taken.

(6) HEARINGS.—Notice and opportunity to be heard upon any proceeding instituted before the Commission shall be given to the respondent and the Secretary or his delegate. If an opportunity to be heard upon the proceedings is given before a hearing examiner of the Commission, neither the respondent nor the Secretary nor his delegate shall be entitled to notice and opportunity to be heard before the Commission upon review, except upon a specific order of the Chairman of the Commission. Hearings before the Commission shall be open to the public, and the testimony, and, if the Commission so requires, the argument, shall be stenographically reported. The Commission is authorized to contract for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Commission and to others and agencies.

(7) REPORTS AND DECISIONS.—(a) A report upon any proceeding instituted before the Commission and a decision thereon shall be made as quickly as practicable. The decision shall be made by a Commissioner in accordance with the report of the Commission, and such decision so made shall, when entered, be the decision of the Commission.

(b) It shall be the duty of the Commission to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Commission shall report in writing all its findings of fact, opinions, and memorandum opinions.

(c) A decision of the Commission dismissing the proceeding shall be considered as its decision.

(8) PROCEDURES IN REGARD TO THE HEARING EXAMINERS.—(a) A hearing examiner shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such hearing examiner by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceeding.

(b) The report of the hearing examiner shall become the report of the Commission within 30 days after such report by the hearing examiner unless within such period any Commissioner has directed that such report shall be reviewed by the Commission. Any preliminary action by a hearing examiner which does not form the basis for the entry of the final decision shall not be subject to review by the Commission except in accordance with such rules as the Commission may prescribe. The report of a hearing examiner shall not be a part of the record in any case in which the Chairman directs that such report shall be reviewed by the Commission.

(9) PUBLICITY OF PROCEEDINGS.—All reports of the Commission and all evidence received by the Commission, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Commission in any proceeding which has become final the Commission may, upon motion of the respondent or the Secretary or his delegate, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Commission; or the Commission may, on its own motion, make such other disposition thereof as it deems advisable.

(10) PUBLICATION OF REPORTS.—The Commission shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

(11) Upon issuance of a citation and notification of the Commission, pursuant to section 10, the Commission shall afford an opportunity for a hearing, and shall issue such orders, and make such decisions, based upon findings of fact, as are deemed necessary to enforce the Act.

C. MISCELLANEOUS PROVISIONS.—

(1) EMPLOYEES.—(a) Appointment and Compensation.

The Commission is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C. chapter 21), as amended to fix the compensation of such employees, including a Secretary to the Commission, as may be necessary to efficiently execute the functions vested in the Commission.

(b) Expenses for Travel and Subsistence.

The employees of the Commission shall receive their necessary traveling expenses, and expenses for subsistence while traveling on duty and away from their designated stations, as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16).

(2) EXPENDITURES.—The Commission is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary to efficiently execute the functions vested in the Commission. All expenditures of the Commission shall be allowed and paid, out of any moneys appropriated for purposes of the Commission, upon presentation of itemized vouchers therefor signed by the certifying officer designated by the Chairman.

(3) DISPOSITION OF FEES.—All fees received by the Commission shall be covered into the Treasury as miscellaneous receipts.

(4) FEE FOR TRANSCRIPT OF RECORD.—The Commission is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 12. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act.

(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to section 11 of this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedures, except that no temporary restraining order issued without notice shall be effective for a period longer than 5 days.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

(d) If the Secretary unreasonably fails to petition the court for appropriate relief under this section and any employee is injured thereby either physically or financially by reason of such failure on the part of the Secretary, such employee may bring an action against the United States in the Court of Claims in which he may recover the damages he has sustained, including reasonable court costs and attorney's fees.

(e) In any case where a temporary restraining order is obtained under this section by the Secretary, the court which grants such relief shall set a sum which it deems proper for the payment of such costs, damages, and attorney's fees as may be incurred or suffered by any employer who is found to have been wrongfully restrained or enjoined. In no case shall any employer wrongfully restrained or enjoined be entitled to a recovery for costs, damages, and attorney's fees in excess of the sum set by the court.

JUDICIAL PROCEEDINGS

SEC. 13. (a) (1) Any employer required by an order of the Commission to comply with the standards, regulations, or requirements under this Act, or to pay a penalty, may obtain judicial review of such order by filing a petition for review, within sixty days after service of such order, in the United States court of appeals for the circuit wherein the violation is alleged to have occurred or wherein the employer has its principal office. A copy of the petition shall forthwith be transmitted by the clerk of the court to the Commission and to the Secretary.

(2) The Secretary may also obtain judicial review or enforcement of a decision of the Commission as provided in subsection (1) of this section.

(3) Until the record in a case shall have been filed in a court, as herein provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part any finding, order or rule made or issued by it.

(4) Upon the filing of a petition for review under this section, such court shall have jurisdiction of the proceeding and shall have power to affirm the order of the Commission, or to set aside in whole or in part, temporarily or permanently, and to enforce such order to the extent that it is affirmed. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order requiring compliance with the terms of the order of the Commission. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court, operate as a stay of the order of the Commission.

(5) No objection to the order of the Commission shall be considered by the court unless such objection was urged before the Commission or unless there were reasonable grounds for failure to do so. The findings of the Commission as to the facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive, but

the court, for good cause shown, may remand the case to the Commission for the taking of additional evidence in such manner and upon such terms and conditions as the court may deem proper, in which event the Commission may make new or modified findings and shall file such findings (which, if supported by substantial evidence on the record considered as a whole, shall be conclusive) and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence.

(6) The judgment of the court affirming or setting aside, in whole or in part, any order under this subsection shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(7) An order of the Commission shall become final under the same conditions as an order of the Federal Trade Commission under section 45(g) of title 15, U.S.C.

(b) Any interested person affected by the action of the Board in issuing a standard under section 6 may obtain review of such action by the United States Court of Appeals for the District of Columbia by filing in such court within thirty days following the publication of such rule a petition praying that the action of the Board be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the Board, and thereupon the Board shall certify and file in the court the record upon which the action complained of was issued as provided in section 2112 of title 28, United States Code. Review by the court shall be in accord with the provisions of section 706 of title 5, United States Code. The court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action and shall certify to the court the record of the further proceedings. The remedy provided by this subsection for reviewing a standard or rule shall be exclusive. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of a proceeding under this subsection shall not, unless specifically ordered by the court, delay the application of the Board's standards.

(c) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil suit in the name of the United States brought in the Federal district court in the district where the violation is alleged to have occurred or where the employer has its principal office.

(d) The Federal district courts shall have jurisdiction of actions to collect penalties prescribed in this Act and may provide such additional relief as the court deems appropriate to carry out the order of the Occupational Safety and Health Appeals Commission.

REPRESENTATION IN CIVIL LITIGATION

SEC. 14. Except as provided in section 518 (a) of title 28, United States Code, relating to litigation before the Supreme Court and the Court of Claims, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

CONFIDENTIALITY OF TRADE SECRETS

SEC. 15. All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when essential in any proceeding under this Act. However, any such information shall be recorded and presented off the official public record, and shall be kept and preserved separately.

VARIATIONS, TOLERANCES, AND EXEMPTIONS

SEC. 16. The Board, on the record, after notice and opportunity for a hearing may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as it may find necessary and proper to avoid serious impairment of the national defense. Such action shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

PENALTIES

SEC. 17. (a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard or rule promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than $10,000 for each violation.

(b) Any citation for a serious violation of the requirements of section 5 of this Act, of any standard or rule promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall include a proposed penalty of up to $1,000 for each such violation.

(c) Any employer who violates the requirements of section 5 of this Act, any standard or rule promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, and such violation is specifically determined by the Secretary not to be of a serious nature, the Secretary may include in the citation issued for such violation a proposed penalty of up to $1,000 for each such violation.

(d) Any employer who violates any order or citation which has become final in accordance with the provision of section 10 of this Act may be assessed a penalty of up to $1,000 for each such violation. When such violation is of a continuing nature, each day during which it continues shall constitute a separate offense for the purpose of assessing the penalty except where such order or citation is pending review under section 11 of this Act.

(e) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of inspections or investigatory duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years or both. Whoever kills a person while engaged in or on account of the performance of inspecting or investigating duties under this Act shall be punished by imprisonment for any term of years or for life.

(f) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed by the Commission a civil penalty of up to $1,000 for each such violation.

(g) Any person who discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, shall be assessed a civil penalty by the Commission of up to $10,000. Such person may also be subject to a fine of not more than $10,000 or imprisonment of a period not to exceed 10 years or both.

(b) The Commission shall have authority to assess and collect all penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(i) For purposes of this section a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the Secretary determines that the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

STATE JURISDICTION AND STATE PLANS

SEC. 18. (a) Nothing in this Act shall prevent any State agency or court from assering jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are or will be at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues,

(3) provides for a right of entry and inspection of all workplaces subject to the Act which is at least as effective as that provided in section 9(a)(1), and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program is as effective as the standards contained in an approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary rejects a plan sub-

mitted under subsection (b), he shall afford the State submitting the plan, due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 9, 10, 11 and 12 with respect to comparable standards promulgated under section 6, for the period specified in the next sentence. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of sections 5(b), 9 (except for the purpose of carrying out subsection (c)), 10, 11, and 12, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under sections 10 or 11 before the date of determination.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition praying that the action of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan to be arbitrary and capricious, the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

FEDERAL AGENCY SAFETY PROGRAMS AND RESPONSIBILITIES

SEC. 19. (a) It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall (after consultation with representatives of the employees thereof)—

(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6;

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to subsection (a)(3) of this section; and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agencys program under this section. Such report shall include any report submitted under section 7902(e)(2) of title 5, United States Code.

(b) The Secretary shall report to the President a summary or digest of reports submitted to him under subsection (a)(5) of this section, together with his evaluations of and recommendations derived from such reports. The President shall transmit annually to the Senate and House of Representatives a report of the activities of Federal agencies under this section.

(c) Section 7902(c)(1) of title 5, United States Code is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsections (a)(3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

TRAINING AND EMPLOYEE EDUCATION

SEC. 20. (a) The Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor, the Board and with other appropriate Federal departments and agencies, shall conduct, directly or by grants or contracts (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and (2) informational programs on the importance of and proper use of adequate safety and health equipment.

(b) The Secretary is also authorized to conduct (directly or by grants or contracts) short-term training of personnel engaged in work related to his responsibilities under this Act.

(c) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employments covered by this Act, and to consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

GRANTS TO THE STATES

SEC. 21. (a) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 18(c) to assist them (1) in identifying their needs and responsibilities in the area of occupational safety and health, (2) in developing State plans under section 18 or (3) in developing plans for—

(A) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(C) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(b) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in subsection (a) of this section.

(c) The Governor of the State shall designate the appropriate State agency, or agencies, for receipt of any grant made by the Secretary under this section.

(d) Any State agency, or agencies, designated by the Governor of the State, desiring a grant under this section shall submit an application therefor to the Secretary.

(e) The Secretary shall review the application, and shall, after consultation with the Secretary of Health, Education, and Welfare, approve or reject such application.

(f) The Federal share for each State grant under subsection (a) or (b) of this section may be up to 90 per centum of the State's total cost. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(g) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 18 of this Act. The Federal share for each State grant under this subsection may be up to 50 per centum of the State's total cost. The last sentence of subsection (f) shall be applicable in determining the Federal share under this subsection.

(h) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health, Education, and Welfare, transmit a report to tne President and to Congress, describing the experience under the program and making any recommendations he may deem appropriate.

ECONOMIC ASSISTANCE TO SMALL BUSINESSES

SEC. 22. (a) Section 7(b) of the Small Business Act, as amended, is amended—

(1) by striking out the period at the end of "paragraph (5)" and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in affecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act or standards adopted by a State pursuant to a plan approved under section 18 of the Occupational Safety and Health Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of the Small Business Act, as amended, is amended by striking out "or (5)" after "paragraph (3)" and inserting a comma followed by "(5) or (6)".

(c) Section 4(c)(1) of the Small Business Act, as amended, is amended by inserting "7(b)(6)," after "7(b)(5),".

(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b)(6) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

RESEARCH AND RELATED ACTIVITIES

SEC. 23. (a)(1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary, the Board and with other appropriate Federal departments or agencies, shall conduct (directly or by grants or con-

tracts) research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

(2) The Secretary of Health, Education, and Welfare shall from time to time consult with the Board in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including criteria identifying toxic substances, enabling the Board to meet its responsibility for the formulation of safety and health standards under this Act; and the Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop and publish at least annually such criteria as will effectuate the purposes of this Act.

(3) The Secretary of Health, Education, and Welfare shall also conduct special research, experiments, and demonstrations relating to occupational safety and health as are necessary to explore new problems, including those created by new technology in occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act. The Secretary of Health, Education, and Welfare shall also conduct research into the motivational and behavioral factors relating to the field of occupational safety and health.

(4) The Secretary of Health, Education, and Welfare shall publish within six months of enactment of this Act and thereafter as needed but at least annually a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur.

(5) The Board shall respond, as soon as possible, to a request by any employer or employee for a determination whether or not any substance normally found in a working place has toxic or harmful effects in such concentration as used or found;

(b) The Secretary of Health, Education, and Welfare is authorized to make inspections and question employers and employees as provided in section 9 of this Act in order to carry out his functions and responsibilities under this section.

(c) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies relating to his responsibilities under this Act. In carrying out his responsibilities under this subsection, the Secretary and the Secretary of Health, Education, and Welfare shall cooperate in order to avoid any duplication of efforts under this section.

(d) Information obtained by the Secretary, the Board and the Secretary of Health, Education, and Welfare under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

STATISTICS

SEC. 24 (a). In order to further the purposes of this Act, the Secretary shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this Act but shall not cover employments excluded by section 4 of the Act.

(2) To carry out his duties under subsection (a) of this section, the Secretary may:

(1) Promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics.

(2) Make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics.

(3) Arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each State grant under subsection (b) of this setcion may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(e) On the basis of the records made and kept pursuant to section 9(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

(f) Agreements between the Department of Labor and the States pertaining to the collection of occupational safety and health statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

EFFECT ON OTHER LAWS

SEC. 25. (a) Nothing in this Act shall be construed or held to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of, or in the course of, employment.

(b) Nothing in this Act shall apply to working conditions of employees with respect to whom other Federal agencies, and State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021) exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(c) The safety and health standards promulgated under the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.), the Service Contract Act (41 U.S.C. 351 et seq.), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.), are deemed repealed and rescinded on the effective date of corresponding standards promulgated under this Act, as determined by the Secretary of Labor to be corresponding standards.

(d) Nothing in this Act shall apply to any employer who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting or decorating in the regular course of his business.

(e) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this Act and other Federal laws.

(f) Section 2 of the Act of August 9, 1969. (Public Law 91–54, 83 Stat. 96) is hereby amended to read as follows:

"SEC. 2. The first section and section 2 of the Act of August 13, 1962, are each amended by inserting 'and Construction Safety and Health' before 'standards' each time it appears."

(g) Subsection 107 of Public Law 91–54 (83 Stat. 96) is amended to read as follows:

"SEC. 107. (a) (1) It shall be a condition of each contract which is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and is for construction, alteration, and/or repair, including painting and decorating, that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by the Secretary by regulation based on proceedings pursuant to section 553 of title 5, United States Code, provided that such proceedings include a hearing of the nature authorized by said section. The Secretary of Labor shall consult with the Advisory Committee on Construction Safety and Health created by subsection (f) and shall give due regard to the Committee's recommendations and information in framing proposed rules or subjects and issues in setting standards in accordance with SEC. 443 of title 5 U.S. Code.

"(2) Each employer as defined in section 3(6) of the Occupation Safety and Health Act who is a contractor or subcontractor for construction, alteration, and/or repair of buildings or works, including painting and decorating in the regular course of his business, shall comply with construction safety and health standards promulgated under this section."

(h) Subsection (b) of section 107 of Public Law 91–54 (83 Stat. 96) is amended to read as follows:

"(b) (1) The Secretary is authorized to make inspections and investigations pursuant to sections 9(a)(c), and (d) of the Occupational Safety and Health Act. If upon the basis of inspection or investigation, the Secretary believes that an employer subject to the provisions of section 107(a)(2) has violated any health or safety standard promulgated under section 107(a) of this Act, or has violated the condition required of any contract to which subsection (a) of this section applies, the Secretary shall issue a citation to the employer unless the violation is *de minimis*. The provisions of section 10 (except subsection (c) thereof) of the Occupational Safety and Health Act shall apply to citations issued under this Act. In issuing citations under this Act, the Secretary shall issue each citation at the earliest possible time from the occurrence of the alleged violation but in no event later than 45 days from the occurrence of the alleged violation except that for good cause the Secretary may extend such period up to a maximum of 90 days from such occurrence. The provisions of section 12 of the Occupational Safety and Health Act shall also apply to this Act.

"(2) If, after notice and opportunity for hearing, the Commission determines that a violation has occurred of any condition prescribed by this section for a contract of the type described in clause (1) or (2) of section 103(a) of this Act, the governmental agency for which the contract work is done shall have the right to cancel the contract, and to enter into other contracts for the completion of the contract work, charging any additional cost to the original contractor. If, after notice and opportunity for hearing, the Commission determines that a violation has occurred of any condition prescribed by this section for a contract of the type described in clause 3 of section 103(a), the governmental agency by which financial guarantee, assistance, or insurance for the contract work is provided shall have the right to withhold any such assistance attributable to the performance of the contract. Section 104 of this Act shall not apply to the enforcement of this section."

(i) Subsection (c) of section 107 of Public Law 91–54 (83 Stat. 96) is hereby repealed and subsection (d) of that section is redesignated as subsection "(c)" and is amended to read as follows:

"(c) (1) If the Commission determines on the record after an opportunity for hearing

that by repeated willful or grossly negligent violations of this Act, a contractor or subcontractor has demonstrated that the provisions of subsection (b) of this section and actions by the Secretary under paragraph (3) of this subsection are not effective to protect the safety and health of his employees, the Commission shall make a finding to that effect and shall, not sooner than thirty days after giving notice of the findings to all interested persons, transmit the name of such contractor or subcontractor to the Comptroller General.

"(2) The Comptroller General shall distribute each name so transmitted to him to all agencies of the Government. Unless the Commission otherwise recommends, no contract subject to this section shall be awarded to such contractor or subcontractor or to any person in which such contractor or subcontractor has a substantial interest until three years have elapsed from the date the name is transmitted to the Comptroller General. If, before the end of such three-year period, the Commission, after affording interested persons due notice and opportunity for hearing, is satisfied that a contractor or subcontractor whose name he has transmitted to the Comptroller General will thereafter comply responsibly with the requirements of this section, the Commission shall terminate the application of the preceding sentence to such contractor or subcontractor (and to any person in which the contractor or subcontractor has a substantial interest); and when the Comptroller General is informed of the Commission's action he shall inform all agencies of the Government thereof.

"(3) Any person aggrieved by an action of the commission under subsections (b) or (c) of this section may seek a review of such action in the appropriate United States Court of Appeals pursuant to the provisions of section 13(a) of the Occupational Safety and Health Act. The Secretary may also obtain judicial review or seek enforcement as provided in sections 13(a) and 13(c) and (d), and section 14 of the Occupational Safety and Health Act."

(j) Section 107 of Public Law 91–54 (83 Stat. 96) is amended by adding a new subsection "(d)" immediately after the new section "(c)". Subsection (e) of section 107 of Public Law 91–54 (83 Stat. 96) is hereby redesignated as subsection "(f)" and subsection (f) of section 107 of Public Law 91–54 (83 Stat. 96) is accordingly redesignated as subsection "(g)". The new subsection "(d)" shall read as follows:

"(d) (1) Any employer who willfully or repeatedly violates the standards promulgated by the Secretary under section 107(a) of this Act, may be assessed a civil penalty of not more than $10,000 for each violation.

"(2) Any citation for a serious violation of the standards promulgated by the Secretary under section 107(a) of this Act shall include a proposed penalty of up to $1,000 for each such violation.

"(3) Any employer who violates the standards promulgated by the Secretary under section 107(a) of this Act and such violation is specifically determined by the Secretary not to be of a serious nature, the Secretary may include in the citation issued for such a violation a proposed penalty of up to $1,000 for each such violation.

"(4) Any employer who violates any order or citation which has become final in accordance with the provisions of section 10 of the Occupational Safety and Health Act may be assessed a penalty of up to $1,000 for each such violation. When such violation is of a continuing nature, each day during which it continues shall constitute a separate offense for the purpose of assessing the penalty except where such order or citation is pending review under section 11 of the Occupational Safety and Health Act.

"(5) Any employer who violates any of the posting requirements, as prescribed in section 10(e) of the Occupational Safety and Health Act, shall be assessed by the Commission a civil penalty of up to $1,000 for each such violation.

"(6) Any person who discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, shall be assessed a civil penalty by the Commission of up to $10,000. Such person may also be subject to a fine of not more than $10,000 or imprisonment of a period not to exceed 10 years, or both.

"(7) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of inspections or investigatory duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such acts, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than 10 years or both. Whoever kills a person while engaged in or on account of the performance of inspecting or investigating duties under this Act shall be punished by imprisonment for any term of years or for life.

"(8) The Commission shall have authority to assess and collect all penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

"(9) For the purpose of this subsection a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the Secretary determines that the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation."

AUDITS

SEC. 26. (a) Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any book, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

REPORTS

SEC. 27. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health, Education, and Welfare shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress concerning the achievement of its purposes, the needs and requirements in the field of occupational safety and health, and any other relevant information, and including any recommendations to effectuate the purposes of this Act.

APPROPRIATIONS

SEC. 28. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

EFFECTIVE DATE

SEC. 29. This Act shall take effect 120 days after the date of its enactment.

SEPARABILITY

SEC. 30. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION-BY-SECTION ANALYSIS OF PROPOSED SUBSTITUTE FOR H.R. 16785 ON OCCUPATIONAL SAFETY AND HEALTH

SECTION 1—SHORT TITLE

This section provides that the Act may be cited as the "Occupational Safety and Health Act."

SECTION 2—CONGRESSIONAL FINDINGS AND PURPOSE

This section states a congressional finding that occupational injuries and illnesses imposes a substantial burden upon interstate commerce. The purpose of the bill is stated to be the assurance of safe and healthful working conditions and to preserve our human resources. This purpose is attained; (1) encouraging employers to reduce the number of occupational injuries and health hazards in their establishments and to stimulate employers to institute new and perfect existing programs for providing safe and healthful working conditions; (2) providing for a separate but dependent responsibilities and rights on the part of employers and employees with respect to achieving a safe and healthful work environment; (3) creating a National Occupational Safety and Health Board to be appointed by the President for the purpose of setting mandatory occupational safety and health standards; (4) building upon advances already made through employer initiative in providing safe and healthful working conditions; (5) providing for comprehensive research concerning occupational safety and health with special emphasis on health problems; (6) providing criteria which will assure that no employee will suffer diminished health and functional capacity as a result of work experience; (7) providing for training programs; (8) providing for effective enforcement of the standards, including a prohibition on advance notice of any inspection; (9) encouraging the States to assume the fullest responsibility for administering and enforcing occupational safety and health laws; (10) providing assistance to the States in conducting research and development in carrying out their responsibilities under the Act, and to improve the administration and enforcement of State standards established under plans as approved by the Secretary of Labor; (11) providing for appropriate reporting procedures for accidents and injuries; and (12) encouraging joint labor-management efforts to reduce the number of occupational injuries and diseases.

SECTION 3—DEFINITIONS

This section contains definitions of certain terms used in the bill. The term "Secretary" means the Secretary of Labor. The term "Safety and Health Appeals Commission" means the Occupational Safety and Health Appeals Commission as established under the Act. The term "Board" means the National Occupational Safety and Health Board as established under the Act. The terms "commerce" and "person" are also defined. The term "employer" means a person engaged in a business affecting commerce who has em-

ployees, but does not include: the United States or any State or political subdivision of a State. The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce. The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands. The term "occupational safety and health standard" is defined as a standard which requires conditions (or the adoption or use of one or more practices, means, methods, operations, or processes) reasonably necessary to provide safe or healthful employment and places of employment, and the term "national consensus standard" is defined as any occupational safety and health standard or modification thereof which the Board determines after consultation with other Federal agencies, has been adopted by a nationally recognized public or private standards-producing organization, using the consensus method through which the views of interested and affected parties are considered. The term "established Federal standard" means any operative occupational safety and health standard already established by any agency of the United States, or contained in any Act of Congress in force on the date of enactment of this Act.

SECTION 4—APPLICABILITY OF ACT

This section designates geographic application of act and provides that in areas where there are no Federal district courts having jurisdiction, the Secretary of the Interior shall provide for judicial enforcement.

SECTION 5—DUTIES OF EMPLOYERS

Subsection (a) provides that each employer must provide employment free from any readily apparent hazards which are causing or likely to cause death or serious physical harm to employees.

Subsection (b) requires each employer to comply with standards promulgated under the Act.

SECTION 6—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subsection (a) authorizes the National Occupational Safety and Health Board (established under section 8 of the Act) to promulgate rules prescribing occupational safety and health standards in accordance with formal APA procedures.

Subsection (b) requires the Board to promulgate as an occupational safety and health standard any national consensus standard or established Federal standard, unless it determines that such standard would not result in improved safety and health. No hearing is required, since this procedure is not subject to the APA, and such standards would take effect immediately upon publication in the Federal Register, and remain in effect until superseded by a standard promulgated pursuant to formal APA requirements (as provided in subsection (a)). This section requires the Board to promulgate such standards as soon as practicable but no later than 3 years after the date of enactment.

Subsection (c) provides that whenever the Board promulgates any standard, makes any rule, order, decision, or grants and exemption or extension of time, it shall include a statement of the reasons for such action, and such statement shall be published in the Federal Register. The Board must also include in any rule it issues, which differs from an existing national consensus standard, a statement of why its rule better effectuates the purposes of the Act.

Subsection (d) authorizes any agency to participate in rulemaking.

Subsection (e) provides that the Secretaries of Labor and HEW may submit at any time a request to the Board to establish or modify a standard. The board must commence standard-setting procedures within 60 days of receipt of the request.

Subsection (f) authorizes any interested person to make a similar request to the Board, and the Board must give such requests due consideration.

Subsection (g) provides for the submission of additional evidence following the expiration of a standards-setting hearing.

Subsection (h) provides that the Board in determining priorities for setting occupational safety and health standards must give due regard to the needs of industries, trades, etc., for these standards.

Subsection (i) provides in paragraph (1) that where no standard exists, the Board may issue an emergency temporary standard which takes effect immediately on publication in the Federal Register. The Board is not required to hold any hearing prior to issuing such standards. But this authority is narrowly circumscribed. The Board may issue an emergency temporary standard only if it first determines (A) that employees are exposed to grave danger from exposure to substances determined (with the aid of HEW research; see sec. 17(a)(2)) to be toxic, or to new hazards resulting from the introduction of new processes and (B) that such emergency standard is necessary to protect employees from the type of danger just described.

Paragraph (2) of subsection (i) provides that an emergency temporary standard shall remain in effect until replaced by a standard issue through formal APA procedures.

Paragraph (3) requires the Board, as soon as the emergency temporary standard is published in the Federal Register, to start formal APA procedures, and promulgate its standard within 6 months of the date of publication of the emergency temporary standard. In these instances the emergency temporary standard is to serve as the notice of proposed rulemaking.

Subsection (j) authorizes the Board to appoint advisory committees to assist in its standard-setting function, where the Board desires such assistance. If appointed, the advisory committee shall submit its recommendations within 270 days (or longer or shorter if the Board prescribes, but in no event longer than 1 year and 3 months). These recommendations are printed in the Federal Register as notice of proposed rulemaking.

Paragraph (2) of subsection (j) provides that within 4 months, or as soon as practicable, after submission of advisory committee recommendations or the Board's proposals (made where an advisory committee has failed to submit recommendations), the Board shall give notice of a hearing. Such notice (including time, place, subjects, issues, and recommendations) is to be published in the Federal Register 30 days prior to the hearing. Only those who have submitted comments prior to the hearing shall have a right to submit oral evidence at the hearing but nothing shall prevent anyone from submitting written views for consideration.

Subsection (k) provides that, within 60 days (where an advisory committee is utilized) or 120 days (if no advisory committee) after completion of a hearing on the record, the Board shall issue a rule promulgating, modifying, or revoking an occupational safety and health standard or make a determination that a rule should not be issued. Such rule may contain a provision delaying the effective date up to 90 days to permit familiarization of employees and employers with the standard and its terms.

Subsection (l) permits employers to apply to the Board for an exemption from the standards. The applicant must show the Board by a preponderance of the evidence, that he is providing, or will provide, working conditions which are as safe and healthful as if he were to comply with the standards. The exemption, if granted, would be in the form of a rule issued by the Board after formal hearings and inspections. Affected employees must be given notice of an application for an exemption and also afforded an opportunity to participate in the hearing.

The rule of the Board shall prescribe the conditions, practices, means, methods, etc., which an employer-applicant must adopt and utilize to the extent that they differ from the standard in question.

Lastly, subsection (l) provides that the exemption-rule may be modified or revoked at any time after six months following its issuance upon application by the employer, the employees, or by the Board on its own motion. Procedures for modification or revocation are the same as those used for granting the exemption.

Subsection (m) requires that standards include any posting or labeling requirements which are necessary to place affected employees on notice of any hazards as well as suggest methods of avoiding the hazards.

SECTION 7—NATIONAL ADVISORY COMMITTEE

Subsection (a)–(d) direct the Secretary to appoint a National Advisory Committee on Occupational Safety and Health, consisting of 12 members, four of whom are to be designated by the Secretary of HEW, composed equally of representatives of management, labor, and the public, and selected upon the basis of their experience and competence in the field of occupational safety and health. The Committee is directed to advise, consult with, and make recommendations to, the Secretary on matters relating to the administration of the bill. The Committee must hold at least 2 meetings a year. All committee meetings must be open to the public and a transcript must be kept.

Subsection (e) authorizes the Board to appoint such advisory committees as it deems necessary to assist it in promulgating occupational safety and health standards under section 6 of the Act. The number of members on an advisory committee shall not exceed 15. The Board shall designate specific representatives to serve, as well as other public members qualified by knowledge and experience, but the number of persons so appointed to any advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies.

This subsection also provides for the compensation of advisory committee members but forbids one to serve as a committee member (other than representatives of employers and employees) who has an economic interest in any proposed rule.

All committee meetings are to be open and an accurate record is to be kept.

SECTION 8—NATIONAL OCCUPATIONAL SAFETY AND HEALTH BOARD

This section provides for the appointment by the President of a five-member Board to promulgate occupational safety and health standards as authorized by section 6 of the proposal. The Board shall serve at the pleasure of the President and he shall designate its chairman.

Subsections (b) through (k) of the instant section provide the necessary housekeeping and procedural authority for the effective operation of the Board in carrying out its standards-setting functions under the Act.

SECTION 9—DUTIES OF THE SECRETARY: INSPECTIONS, INVESTIGATIONS, AND REPORTS

Subsection (a) authorizes the Secretary of Labor to make inspections and investigations in a reasonable manner of places subject to the Act.

Subsection (b) requires that, if an employer or his representative accompanies an inspector during an inspection, a represent-

ative of the employees must also be given an opportunity to accompany the inspector.

Subsection (c) requires employers to keep and make available to the Secretary such records as he may prescribe as necessary for carrying out his duties under the Act.

Subsection (d) provides the Secretary of Labor with subpoena power of books, records, and witnesses.

Subsection (e) authorizes the Secretary to use other Federal agencies and State agencies and to employ experts and consultants to assist him in carrying out his responsibilities under the Act. Appropriate consent and reimbursement provisions are included. The Secretary is also authorized to delegate such authority to other Federal agencies, or to appropriate State agencies with their consent and under conditions agreed upon by the Secretary and the State agency.

Subsection (f) directs the Secretary, the Secretary of HEW, or a State agency to avoid the duplication of effort in obtaining information and to obtain such information in a manner that will place a minimum burden on employers.

Subsection (g) authorizes the Secretary to prescribe rules and regulations for carrying out his functions, including rules and regulations relating to inspections.

Subsection (h) authorizes the appropriation of funds to enable the Secretary to purchase necessary monitoring equipment for the purpose of measuring employee exposure to work environments which might cause cumulative or latent ill effects.

SECTION 10—CITATIONS AND SAFETY AND HEALTH APPEALS COMMISSION HEARINGS

Subsection (a) provides that Secretary shall issue a citation for a violation of the Act's requirements unless the violation is *de minimis*. The citation must be in writing and detail the nature of the violation.

Subsection (b) requires that the citation also include the amount of any proposed penalty and a reasonable time for correction.

Subsection (c) requires the Secretary to issue the citations within 45 days from the occurrence. For good cause the time period may be extended for up to 90 days.

Subsection (d) provides that an employer may obtain a formal hearing on the citation before the Occupational Safety and Appeals Commission (as established under section 11 of the Act). In order to obtain a hearing an employer must notify the Secretary within 15 days after he receives a citation of his intention to contest the citation; the Secretary in turn must notify the Commission. If the employer does not give notice of his intention to contest the citation, it becomes a final order of the Commission the day after the expiration of the 15 day notice period.

Subsection (e) requires employers to post citations near where the violation for which the citation was given occurred.

Subsection (f) limits the time for issuing citations to three months following the occurrence of the violation.

Subsection (g) provides that when the Secretary compromises, mitigates, or settles any penalty he must publish the reasons for his action in the Federal Register.

SECTION 11—OCCUPATIONAL SAFETY AND HEALTH COMMISSION

This section establishes the Occupational Safety and Health Commission for the purpose of adjudicating cases of alleged violations brought before it. The 3-member Commission would be Presidentially appointed with the advice and consent of the Senate for staggered 6-year terms. Qualifications for the position would rest solely on the fitness to perform the duties of the office.

The section also sets forth all of the necessary rule-making, procedural, and housekeeping authority necessary for the proper functioning of the Commission.

SECTION 12—PROCEDURES TO COUNTERACT IMMINENT DANGERS

This section grants jurisdiction to the U.S. district courts to grant appropriate temporary relief in imminent danger situations. Such a danger is one that could reasonably be expected to cause death or serious physical harm before it could be eliminated through the enforcement procedures otherwise provided by the Act. These proceedings are made subject to Rule 65 of the Federal Rules of Civil Procedure, except that no temporary restraining order issued without notice shall be effective for more than 5 days. The courts are authorized to issue such injunctive relief or temporary restraining orders under this section pending the outcome of a section 11 enforcement proceeding.

An inspector is required to inform employees and employers of the imminent danger, and of the fact that he is recommending to the Secretary that appropriate relief, as authorized in this section, be sought.

The section also provides for damages in the Court of Claims for employees, if the Secretary unreasonably fails to seek appropriate injunctive or temporary relief in imminent danger situations. There is also a separate provision for employer damages. Employer damages would be provided by the setting aside by the district court which issues the injunctive or temporary relief a sum to cover costs, damages, and attorney's fees. In no case may an employer recover more than the court sets aside.

SECTION 13—JUDICIAL PROCEEDINGS

Subsection (a) authorizes employers to obtain judicial review of the Occupational Safety and Health Commission's order by filing a petition for review within 60 days of the issuance of the order in a U.S. Court of Appeals in the circuit where the violation is alleged to have occurred. This subsection also authorizes the Secretary to obtain judicial review or enforcement of a Commission order by filing the appropriate petition in the appropriate U.S. Court of Appeals.

Subsection (a) also provides that the Occupational Safety and Health Commission may modify or set aside its findings, orders or rules until such time as the record is filed in a court.

The subsection also grants the U.S. Court of Appeals *jurisdiction* to affirm, set aside or enforce a Commission order. To the extent that the Court affirms an order it must thereupon issue its own order requiring compliance with the terms of the Commission's order.

No objection to the Commission's orders shall be considered unless such objection was urged before the Commission or there were reasonable grounds for failure to urge such objection. The findings of the Commission shall be conclusive if supported by substantial evidence on the record. For good cause a case may be remanded to the Commission for the taking of additional evidence.

The judgment of the Court is made final subject to review by the Supreme Court upon certiorari or certification.

Subsection (b) provides for the exclusive method for obtaining judicial review of the Board's standards as promulgated under section 6 of the Act. Any interested person affected by the action of the Board in issuing a standard may seek such review. Only the United States Court of Appeals for the District of Columbia shall have jurisdiction to entertain a petition for review of a Board standard. The petition must be filed within thirty days following the publication of the rule by the Board. Review by the Court shall be in accordance with the judicial review provisions of the Administrative Procedure Act (5 U.S.C. 706).

For good cause shown, the Court may remand the case to the Board to take further evidence. And, lastly, this subsection provides that a review proceeding shall not, unless specifically ordered by the Court, delay the application of the Board's standards.

Subsection (c) authorizes the Secretary to collect civil penalties; and the subsection also authorizes suit for recovery of such sums.

Subsection (d) grants jurisdiction to the U.S. District Courts with respect to actions brought to collect civil penalties. The courts may also provide any additional relief deemed appropriate in order to enforce an order issued by the Occupational Safety and Health Commission.

SECTION 14—REPRESENTATION IN CIVIL LITIGATION

Provides that the Solicitor of Labor may appear and represent the Secretary in civil litigation subject to the direction of the Attorney General.

SECTION 15—CONFIDENTIALITY OF TRADE SECRETS

This section assures the confidentiality of trade secrets.

SECTION 16—VARIATIONS, TOLERANCES, AND EXEMPTIONS

The Secretary may provide reasonable limitations, variations, tolerances to avoid serious impairment of the national defense; to be effective for no more than 6 months, unless notice and opportunity for hearing is afforded affected employees.

SECTION 17—PENALTIES

Subsection (a) provides that for willful or repeated violations a penalty of up to $10,000 may be assessed for each violation.

Subsection (b) requires that any citation issued for a serious violation of the Act's requirements must include a proposed penalty of up to $1,000 for each violation.

Subsection (c) provides that where the Secretary determines that a violation of the Act's requirement is not of a serious nature, he may include in the citation a proposed penalty of up to $1,000 for each such violation.

Subsection (d) provides that any employer who violates any final order may be assessed a penalty of up to $1,000 for each violation. If such violation is of a continuing nature each day constitutes a separate offense.

Subsection (e) provides that any person who forcibly resists a person in the performance of his duties under this Act is subject to a $5,000 fine or imprisonment for not more than 3 years or both. The use of a dangerous weapon subjects one to a fine of not more than $10,000 or imprisonment for not more than 10 years. Murder of a person in the performance of his duties subjects one to imprisonment for a term of years or life.

Subsection (f) provides for a penalty of up to $1,000 for each violation of a posting requirement. The Commission would assess such penalties.

Subsection (g) provides a civil penalty of up to $10,000, and a possible criminal fine of up to $10,000 or imprisonment for a period not to exceed 10 years or both for discriminating against employees who exercise their rights pursuant to this Act.

Subsection (h) grants the Occupational Safety and Health Commission the authority to assess and collect penalties.

Subsection (i) defines a serious violation.

SUBSECTION 18—STATE JURISDICTION AND STATE PLANS

Subsection (a) provides that a State may assert jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6 (occupational safety and health standards).

Subsection (b) provides that States may submit a state plan for the development and enforcement of standards relating to occupational safety or health issues that have been

dealt with in standards promulgated under section 6.

Subsection (c) provides that the Secretary shall approve the plan submitted by a State under subsection (b) or any modification thereof, if—

(1) a State agency (or agencies) is designated for administering a plan throughout the State;

(2) it provides for the development and enforcement of standards which are or will be at least as effective as section 6 standards;

(3) it provides for the right of entry and inspection of all workplaces subject to the act at least as effective as provided in section 9(a)(1) and includes a prohibition on advance notice of inspections;

(4) it contains assurances of legal authority and qualified State personnel;

(5) it contains assurances of adequate State funds for administration and enforcement;

(6) it contains assurances that the State will to the extent permitted by law establish programs for its employees and employees of its political subdivisions which are as effective as the standards contained in an approved plan;

(7) it requires employers in the State to make reports in the same manner and extent as if the plan were not in effect;

(8) it provides that the State agency will make reports to the Secretary in such form as the Secretary shall from time to time require.

Subsection (d) provides that if the Secretary rejects a plan, he shall afford a State due notice and opportunity for a hearing.

Subsection (e) provides that after approval of a State plan, the Secretary may exercise his authority under sections 9, 10, 11, and 12 with respect to comparable standards promulgated under sections 6 for at least 3 years after the plan's approval under subsection (c). After State plan approval, provisions of sections 5(b), 9 (except for the purposes of carrying out subsection (c)), 10, 11 and 12 shall not apply, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under sections 10 and 11 before the date of determination.

Subsection (f) provides that the Secretary continually evaluate a State plan. The Secretary has the power to withdraw approval of a State plan if he finds a failure to comply substantially with any provision of the State plan.

Subsection (g) provides that a State may obtain review of the Secretary's withdrawal of approval or rejection of a plan in the U.S. Court of Appeals. The Secretary's decision shall be sustained unless the court finds that the Secretary's decision was arbitrary and capricious. This subsection provides for further appeal to the Supreme Court.

SECTION 19—FEDERAL AGENCY SAFETY PROGRAMS AND RESPONSIBILITIES

Subsection (a) provides that each Federal agency shall maintain a comprehensive occupational safety and health program consistent with standards promulgated under section 6. The head of each agency, after consultation with representatives of employees, shall provide—

(1) places of employment and conditions consistent with standards under section 6;

(2) acquire and maintain and require the use of safety devices to protect its personnel;

(3) keep adequate records;

(4) consult with the Secretary with respect to the agency's program; and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries.

Subsection (b) provides that the Secretary shall submit a summary of reports submitted to him under subsection (a)(5) to the President. The President shall transmit annually to the Senate and House of Representatives a report of the activities of Federal agencies under this section.

Subsection (c) amends section 7902(c)(1) of title 5, United States Code, by permitting labor organizations representing employees to serve on the President's Federal Safety Council.

Subsection (d) provides that the Secretary shall have access to the records and reports filed by Federal agencies pursuant to the requirements of this Act, unless the records and reports are specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy.

SECTION 20—TRAINING AND EMPLOYEE EDUCATION

Subsection (a) authorizes the Secretary of HEW, after consultation with the Secretary of Labor, other Federal agencies and the Board to conduct directly or by grant or contract, programs

(1) to educate and train peronnel;

(2) to provide informational programs.

Subsection (b) authorizes the Secretary to conduct directly or by grants or contracts short-term training of personnel.

Subsection (c) provides that the Secretary together with the Secretary of HEW shall educate and train employers and employees in the recognition and avoidance of accidents, and consult and advise employers and employees as to means of preventing injuries and illnesses.

SECTION 21—GRANTS TO THE STATES

Subsection (a) provides that the Secretary, during fiscal year 1971, and the 2 succeeding fiscal years, may make grants to State agencies designated under section 18 (c) to assist—

(1) in identifying needs;

(2) in developing plans under section 18;

(3) in developing plans for—

(a) collecting statistical data;

(b) increasing personnel capabilities;

(c) improving administration and enforcement, including standards.

Subsection (b) provides that the Secretary, commencing in fiscal year 1971, and the 2 succeeding fiscal years, shall make experimental and demonstration grants.

Subsection (c) provides that the Governor of a State shall designate the State agency to receive a grant.

Subsection (d) provides that the State agency designated by the Governor shall submit grant applications to the Secretary.

Subsection (e) provides that the Secretary, after review with the Secretary of HEW, shall accept or reject the application for grant.

Subsection (f) provides that the Federal share for each State grant under (a) or (b) of this section may be up to 90 percent. Different percentage distribution among the States shall be established on the basis of objective criteria.

Subsection (g) authorizes the Secretary to make grants to States to assist them in administering and enforcing programs for occupational safety and health contained in State plans. The Federal share may be up to 50 percent of the total cost. Differential in allotments to the States must be based on objective criteria.

Subsection (h) provides that the Secretary must make a report after consultation with the Secretary of HEW to the President and the Congress prior to June 30, 1973.

SECTION 22—ECONOMIC ASSISTANCE TO SMALL BUSINESS

This section authorizes loans (by amending the Small Business Act) to small businesses as are necessary and appropriate to assist them in meeting certain costs resulting from the enactment of this Act.

SECTION 23—HEALTH RESEARCH AND RELATED ACTIVITIES

Subsection (a)(1) of this section directs the Secretary of Health, Education, and Welfare, to conduct research, demonstrations, and experiments relating to occupational safety and health after consultation with the Secretary of Labor, the Board, and other appropriate Federal agencies. The Secretary of Health, Education, and Welfare may conduct these activities either directly or by grants or contracts.

Under subsection (a)(2), the Secretary of Health, Education, and Welfare is directed to consult with the Board in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria (including criteria for identifying toxic substances) enabling the Board to meet its responsibility for the formulation of safety and health standards under the Act. The Secretary of Health, Education, and Welfare, on the basis of the research, demonstrations, and experiments and any other information available to him, is directed to develop such criteria.

In addition, subsection (a)(3) directs the Secretary of Health, Education, and Welfare to conduct special research which may be necessary to explore new problems in occupational safety and health. This would include problems caused by new technology which may require ameliorative actions beyond the reach of the present Act. Also, the Secretary of HEW is directed to conduct research into the motivational and behavioral factors relating to the field of occupational safety and health.

Subsection (a)(4) requires the Secretary of HEW to publish within six months of enactment and again as needed, but at least annually, a list of known toxic substances.

Subsection (a)(5) requires the Board to respond to requests from employers or employees for a determination of whether a substance found in a workplace is toxic or otherwise harmful.

Subsection (c) of this section authorizes the Secretary of Labor to contract or otherwise arrange for the conduct of studies relating to his responsibilities under the Act by public or private organizations. It provides for consultation between the two Secretaries in order to avoid duplication of efforts.

SECTION 24—STATISTICS

This section directs the Secretary to develop and maintain a broadly based effective program of collection, compilation, and analysis of occupational safety and health statistics. To achieve this purpose, the Secretary is authorized to engage directly in statistical programs and related activities; to make grants to the States to assist them in their programs; and to arrange, through grants or contracts, for the conduct of research or investigations which give promise of furthering the objectives of this section.

Subsection 24(c) provides that the Federal share for each State grant under the statistics section may be up to 50 percent of the State's total cost.

Subsection 24(d) authorizes the Secretary to use State agencies, with consent and with or without reimbursement, to assist him in carrying out his responsibilities under the statistics section.

Subsection 24(e) requires employers to file reports which the Secretary may need to carry out his functions under the statistics section.

Lastly, subsection 24(f) provides that existing agreements between the Department of Labor and the States relating to the collection of occupational safety and health statistics shall remain in effect until later superseded by grants or contracts.

SECTION 25—EFFECT ON OTHER LAWS

Subsection (a) of this section provides that the bill does not alter or affect in any way workmen's compensation law, or any common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of or in the course of employment.

Subsection (b) provides that nothing in the Act applies to, or authorizes the Board

or the Secretary of Labor to regulate, working conditions of employees with respect to whom another Federal agency, or State agency under section 274 of the Atomic Energy Act of 1954, have statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

Subsection (c) provides that the standards promulgated under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35 *et seq.*, the Service Contract Act, 41 U.S.C. 351 *et seq.*, and the National Foundation on Arts and Humanities Act, 20 U.S.C. 951 *et seq.*, are repealed and rescinded on the effective date of corresponding standards promulgated under the Act. The Secretary has the authority to determine what are corresponding standards.

Subsection (e) requires the Secretary to report to Congress within three years after enactment concerning his recommendations for avoiding unnecessary duplication among other Federal laws.

Subsection (d) of this section makes this Act inapplicable to employers in the construction industry. Subsections (f) through (j) place all construction workers under the protection of the "Construction Safety Act" (P.L. 91-54). Specifically, these subsections provide that all construction workers would come under the protection of safety and health standards developed by the Secretary of Labor under the procedures prescribed by the "Construction Safety Act." However, enforcement and adjudication proceedings for alleged violations of occupational safety and health standards (promulgated by the Secretary pursuant to the procedures of the Construction Safety Act), would be conducted pursuant to the procedures of this Act, (Occupational Safety and Health Act). The additional sanctions of contract debarment and cancellation now provided for under the "Construction Safety Act" would remain.

SECTION 26—AUDITS

This section authorizes the Secretary to prescribe recordkeeping requirements with respect to grant programs under the bill. Both the Secretary and the Comptroller General will have access to records relating to these programs.

SECTION 27—REPORTS

The Secretary of Labor, the Board, and the Secretary of Health, Education, and Welfare are required to submit, once every 2 years, a joint report to the President for transmittal to Congress on the progress being made in the field of occupational safety and health and on the needs and requirements in that field. The report may include recommendations.

SECTION 28—OBSERVANCE OF RELIGIOUS BELIEFS

This section provides an exception for those who object to medical examination, immunization or treatment on religious grounds. However, in instances where the failure to obtain a medical examination, immunization, or treatment might be harmful to the safety and health of others the exception would not apply.

SECTION 29—APPROPRIATIONS

This section authorizes necessary appropriations to carry out the purposes of the Act.

SECTION 30—EFFECTIVE DATE

This section provides that the provisions of the Act will go into effect 120 days after enactment.

SECTION 31—SEPARABILITY

This section contains a separability provision.

COMPARATIVE ANALYSIS OF SIGNIFICANT PROVISIONS OF THE HOUSE COMMITTEE REPORTED OCCUPATIONAL SAFETY AND HEALTH BILL (H.R. 16785) AND THE SUBSTITUTE OCCUPATIONAL SAFETY AND HEALTH BILL

H.R. 16785	SUBSTITUTE BILL
I. Coverage	*I. Coverage*
Covers all employers engaged in business affecting inter-state commerce, excluding Federal and State governments (sec. 2-3), but State-plan section requires States to make their plan-standards applicable to both State and local public employees (sec. 17(c)(5)). Also, employers may apply to Secretary of Labor for exemption from specific standards if employer provides working conditions just as safe as Federal-standard conditions (sec. 7(b)).	Same, except State-plan section is modified so as to avoid the conflict of State *versus* local control in applying State standards to public employees (sec. 18(c)(6)); and the employer applies to the *Board* and not to the Secretary of Labor for the exemption (sec. 5(1)).
II. Standards	*II. Standards*
1. Authority To Issue Standards	1. Authority To Issue Standards
Secretary of Labor (secs. 6-7).	Occupational Safety and Health Board, separate and independent of other Federal agencies. Board is composed of five members, all qualified by previous training, education or experience in the field of occupational safety and health; appointed by and serve at the pleasure of the President (secs. 6 and 8).
2. Types of Mandatory Standards	2. Types of Mandatory Standards
(a) *Interim standards* of three kinds must be promulgated by the Secretary of Labor during first 2 years of the new law's existence, unless he decides they will not assure safer and more healthful working conditions: national consensus standards; standards also developed by national organizations but by a non-consensus method; and already existing Federal standards. These interim standards stay in effect until superseded by another interim standard or by a permanent standard. Secretary of Labor must start procedures to set a permanent standard 90 days after interim standard is promulgated (sec. 6).	(a) National consensus standards and already existing Federal standards must be promulgated by *Board*, unless it determines they will not assure safer and more healthful working conditions. Must be issued as soon as practicable, but not later than 3 years after effective date of law and remain effective until superseded by action of the Board.
(b) *Temporary emergency standards* must be promulgated by the Secretary of Labor if needed to combat grave danger from toxic substances or new hazards (sec. 7(c)(1)). These standards stay in effect only 6 months or until procedings to set permannt replacement standards are ended, but there is no time deadline for ending the proceedings or issuing a permanent standard (sec. 7(c)).	(b) Same, except *Board* issues the temporary emergency standards and they stay in effect until replaced by permanent standards which the Board is required to issue within 6 months after temporary emergency standards are issued (sec. 6(i)).
Secretary must conduct an inspection before he promulgates a temporary emergency standard.	No inspection by Secretary of Labor required prior to promulgation of temporary emergency standard.
(c) *Permanent standards*	(c) Also provides for permanent standards.
3. Procedures for Setting Standards	3. Procedures for Setting Standards
(a) Interim standards are issued by Secretary of Labor *following a hearing* which is required but it is of an informal nature (sec. 6).	(a) National consensus standards and already existing Federal standards promulgated by the Board by publishing them in the Federal Register; no hearings or other APA procedures apply (sec. 6(b)).
(b) *Temporary emergency standards* become effective *30 days after publication* in Federal Register (sec. 7(c)(1)).	(b) Temporary emergency standards become effective *immediately* on publication in Federal Register (sec. 6(i)(1)).
(c) *Permanent standards.* In order to set *each* standard, the Secretary of Labor *must* first appoint an Advisory Committe and give Committee up to 270 days (period may be shortened or lengthened by the Secretary of Labor) to submit its recommendations to him. If the Advisory Committee recommendations are timely filed, the Secretary of Labor has up to four months to schedule formal APA hearings on standards plus Advisory Committee recommendations.	(c) *Permanent standards* are set by the Board, using formal APA procedures. The use of *Advisory Committees* is authorized, but not mandatory.
If not timely filed, Secretary of Labor proceeds with formal APA hearing on his own. Standards are promulgated by Secretary 60 days after hearing ends. (sec. 7 (a) and (b)).	Board shall issue a standard 60 days after hearing ends (if Advisory Committee is utilized), and 120 days afterwards (if no Advisory Committe is utilized).
	Also, Secretary of HEW or Secretary of Labor may request the setting or modification of a standard, and the Board must commence standard-setting procedures within 60 days after request is made (sec. 6 (j) through (m)).
For employer exemption from standards, see I. this chart.	For employer exemption from standards, see I. this chart.
4. Judicial Review of Standards	4. Judicial Review of Standards
No express provision for judicial review of standards.	Provides for judicial review in U.S. Court of Appeals for the District of Columbia. This review is exclusive remedy (sec. 13(b)).

COMPARATIVE ANALYSIS OF SIGNIFICANT PROVISIONS OF THE HOUSE COMMITTEE REPORTED OCCUPATIONAL SAFETY AND HEALTH BILL (H.R. 16785) AND THE SUBSTITUTE OCCUPATIONAL SAFETY AND HEALTH BILL—Continued

H.R. 16785—continued	SUBSTITUTE BILL—continued
III. General duty	*III. General duty*
Contains general requirement that employers maintain safe and healthful working conditions. This general duty is in addition to requirement that employers comply with specific standards issued under the Act. (sec. 5).	Contains a precise requirement that employers furnish employment free from readily apparent hazards which are likely to cause death or serious physical harm. (Also requires compliance with specific standards). (sec. 5.)
IV. Enforcement	*IV. Enforcement*
1. In General	1. In General
Enforced by Secretary of Labor in hearings before Labor Dept. hearing examiners. Secretary of Labor's corrective orders may be enforced in the Federal district courts (sec. 11).	Enforced by Secretary of Labor before an independent Federal agency, the Occupational Safety and Health Appeals Commission, set up under sec. 11. Corrective orders of the Commission may be enforced by the Secretary of Labor in the U.S. Courts of Appeals (sec. 10, 11, and 13).
2. Inspections and Investigations	2. Inspections and Investigations
Secretary of Labor is authorized to make inspections and investigations (sec. 9). A representative of the employer and an authorized representative of the employees must be given an opportunity to accompany inspector on his inspections.	Also authorizes Secretary of Labor to make inspections, but the right of an employee-authorized representative to accompany an inspector on inspections is contingent upon the employer's exercising his option to also accompany the inspector.
3. Citations and Civil Penalties	3. Citations and Civil Penalties
There are three types of citations and penalties: (a) Sec. 10(a) provides that where employer violates any standard, exemption order, or reporting requirement and where serious danger potential exists by reason of these violations, then Secretary of Labor *must* issue citation and is *mandated* to include in such citation a proposed civil penalty of up to $1000 per violation. (b) Sec. 10(b) provides that where employer violates general duty *coupled with existence of serious danger,* or violates a reporting regulation not coupled with existence of serious danger, then Sec. of Labor *must* issue citation but the inclusion of a proposed civil penalty of up to $1000 per violation is *discretionary* with Secretary of Labor; and (c) Sec. 10(c) provides that where employer violates general requirement or any standard but serious danger is not present, Secretary of Labor must issue citation, but *no proposed civil penalty is attached.* However, any employer who *willfully* violates any specific standard is liable to a civil penalty of up to $10,000 per violation.	The Substitue bill provides that the Secretary of Labor shall issue a citation for *every* violation of the Act's requirements unless *de minimis* and must do so within 45 days of the occurrence of the violation; and no citation may be issued after the expiration of three months after the occurrence of a violation (sec. 10). A *willful* or *repeated* violation of the Act's requirements carries a possible civil penalty of up to $10,000 per violation. It is *mandatory* in the case of a serious violation that the citation include a civil penalty of up to $1,000 per violation; and ordinary violations carry a *discretionary* civil penalty in the same amount. A violation of a final order (or of a citation which has become a final order through an employer's failure to appeal a citation within 15 days of its issuance) carries a possible civil penalty of up to a $1,000 per violation. Each day of continued violation in this case is a separate offense.
4. Enforcement Procedures	4. Enforcement Procedures
Where Secretary of Labor issues a citation, employer has 15 days within which to contest it by requesting Secretary of Labor to hold Department of Labor administrative hearing. On the basis of the hearing, Secretary of Labor issues orders. If not timely contested citation becomes final order not subject to review. Secretary of Labor may enforce his orders in the Federal district courts where employers may also seek review, unless the order is one which became final because it was uncontested (sec. 11).	Establishes Occupational Safety and Health Appeals Commission, composed of 3 members appointed by the President. When Secretary of Labor issues citation, employer has 15 days within which to contest it to Secretary. If employer so contests, Secretary notifies Appeals Commission which shall afford employer with opportunity for hearing. Enforcement of Commission's orders, or review of those orders, would be in U.S. Courts of Appeals.
V. Criminal penalties	*V. Criminal penalties*
Forcibly impeding enforcement is made a felony; and it would be a misdemeanor to give advance notice of an employee who avails himself of the Act's protections (sec. 15)	Same, except: (1) there is *no criminal penalty for giving advance notice of an inspection.* Under the Substitute bill the problem of advance notice would be handled administratively by the Secretary of Labor (sec. 2(b)(10)); and the States would handle this the same way (sec. 18(c)(3)).; (2) the Substitute also provides civil penalty for discriminating against employees.
VI. Imminent danger	*VI. Imminent danger*
Permits Department of Labor inspector to issue on-the-spot shut-down orders effective for 5 days where in the inspector's judgment there is imminent danger to employees. Also permits Secretary of Labor to seek injunctive relief in Federal district courts (sec. 12).	Provides *only* for U.S. district court injunctive relief as remedy in imminent harm situations. Rule 65 of Federal Rules of Civil Procedure applies, except relief granted by the court without notice is effective for only 5 days. Inspector *must* notify both employer and employees that he is going recommend to the Secretary that relief be sought.
Damages. If Secretary of Labor *arbitrarily* or *capriciously* issues or fails to issue shut-down order, any person injured thereby, physically or financially, may bring action for damages in U.S. Ct. of Claims.	*Damages.* Damages like those permitted in the Committee bill are available to employees. But test, here, is "unreasonable" failure of Secretary of Labor to seek shut-down order (sec. 12(d)). Damages for employers are determined by the U.S. district court which sets a certain sum which may be recovered as damages by the employer. This method is modeled on Rules 65(c) of the Federal Rules of Civil Procedure (bonding provisions). Thus, the same court which grants the injunctive relief in imminent-danger situations would also determine amount of damages. (sec. 12(e)).
VII. Relationship to other laws administered by the Labor Department	*VII. Relationship to other laws administered by the Labor Department*
1. Walsh-Healey Act, Service Contract Act, and National Foundation on Arts and Humanities Act	1. Walsh-Healey Act, Service Contract Act, and National Foundation on Arts and Humanities Act
Provides that standards under these Acts are "replaced" as corresponding standards are promulgated under the Occupational Safety and Health Act (sec. 4).	Essentially the same (sec. 25(c)).
2. Construction Safety and Health Act (Public Law 91–54)	2. Construction Safety and Health Act (Public Law 91–54)
Treats the same way as it does Walsh-Healey Act, etc. (see above).	In keeping with the recent policy of Congress with respect to protecting construction workers, the Substitute bill would place all construction workers under the protection of the "Construction Safety Act" (Public Law 91–54). Therefore, the Substitute bill expressly provides that the Occupational Safety and Health Act would not apply to employers in construction work. The Substitute bill would also amend Public Law 91–54 to provide that all construction workers would come under the protection of standards developed by the Secretary of Labor under the procedures of Public Law 91–54. The Substitute bill amends Public Law 91–54 to permit the Secretary of Labor to bring cases of alleged violations of construction safety and health standards before the Occupational Safety and

COMPARATIVE ANALYSIS OF SIGNIFICANT PROVISIONS OF THE HOUSE COMMITTEE REPORTED OCCUPATIONAL SAFETY AND HEALTH BILL (H.R. 16785) AND THE SUBSTITUTE OCCUPATIONAL SAFETY AND HEALTH BILL—Continued

H.R. 16785—continued	SUBSTITUTE BILL—continued
VIII. Relationship to other Federal programs Act will not apply to working conditions of employees to whom another Federal agency has statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health (sec. 22(b)).	*VIII. Relationship to other Federal Programs* Same, except added to Federal agency is *State agency* with authority to set standards under sec. 274 of the Atomic Energy Act (sec. 25(b)).
IX. Confidentiality of trade secrets Assures the confidentiality of trade secrets (sec. 14).	*IX. Confidentiality of trade secrets* Same (sec. 15).
X. Variations, Tolerances, and exemptions Variations, tolerances, and exemptions from the Act's provisions may be granted by the Secretary of Labor in order to avoid "serious impairment of the national defense" (sec. 16). The additional sanctions of contract debarment and cancellation now provided for under Public Law 91–54 would remain (sec. 25).	*X. Variations, Tolerances, and exemptions* Same, except the *Board*, not the Secretary of Labor, may grant the variations, tolerances and exemptions (sec. 16).
XI. Federal-State relationship 1. Where No Federal Standards Exist State standards would apply and be enforced where no Federal standards have been promulgated.	*XI. Federal-State relationship* 1. Where No Federal Standards Exist Same.
2. State Plans States which desire to set their own standards may submit a plan to the Secretary of Labor. If approved by him, the State standard and its enforcement by the State would control. However, the Secretary may apply the Federal law in whole or in part in the plan-approved State until he determines, not later than three years after the initial approval, that the plan is operating effectively. But in no event is the Secretary precluded from making inspections at any time to evaluate a State's operations under its plan. One of the several elements, or criteria, which the bill requires a State to include in its plan, is that the State will make all standards included in the plan applicable *to all public employees of the State and its political subdivisions* (sec. 17).	2. State Plans Same, except State-plan criterion with respect to making State standards applicable to public employees of both the State and local governments, is modified in the Substitute bill to take into account existing State laws whereunder some State governments do not have full control over the public employees working for autonomous local governments. Because of situations like this, a State government would not be in a position to agree that it will make its standards applicable to *all* public employees throughout the State (sec. 18).
3. Judicial Review of State Plans Judicial review may be obtained in the U.S. Court of Appeals in the circuit in which the State is located of the Secretary of Labor's decision to reject or withdraw approval of a State plan. Court's test would be whether the Secretary's action was arbitrary or capricious. (Sec. 17(g)).	3. Judicial Review of State Plans Same, (sec. 18(g)).
XII. Federal employee safety Provides safety and health programs to be established by agency heads; programs will be consistent with standards developed under the Act. Consultation with employee representatives is required. (Sec. 18).	*XII. Federal employee safety* Same, (sec. 19).
XIII. Research, employee training, safety-health personnel education, and grants to the States (a) Provides that the Secretary of HEW (directly or by grants or contracts) (1) conduct research in the field of occupational safety and health; (2) produce criteria to assist Secretary of Labor in developing standards; (3) conduct special studies in new problem areas, especially in health matters; (4) develop procedures under which employers *may be required under certain circumstances to measure exposure to toxic substances;* (5) make determinations regarding toxic substances. On the basis of these determinations employers will be required to prohibit employment which would involve exposure to noxious substances, unless appropriate labeling and other precautionary measures are employed. Also permits employee to absent himself from circumstances involving risk connected with toxic substances—without loss of regular compensation for the period of such absence; and (c) set up accident and health reporting systems for employers and for States. (Sec. 19.)	*XIII. Research, employee training, safety-health personnel education, and grants to the States* (a) Essentially the same, but with some differences, i.e., the Substitute Bill *does not have any provisions under which an employer could be required to measure exposure to toxic substances.* Instead, the Substitute bill has a provision authorizing funds to enable Secretary of Labor to purchase equipment which he deems necessary to measure exposure of employees to working conditions involving ill effects from exposure to toxic substances. (Sec. 9(h).) The provisions requiring labeling in toxic-substance environments are also different. Instead of the labeling provisions of the Committee reported bill, including those dealing with employees being absent from noxious working environments, the Substitute bill provides that standards promulgated under the Act shall prescribe the posting of such labels and warnings as are necessary to apprise employees of the nature of hazards and the means and methods of avoiding them. Thus, the Substitute bill would make all the Act's enforcement procedures and penalties which are applicable to standards generally, also applicable to those which include labeling requirements. (Sec. 6(m).)
(b) Requires Secretary of HEW to set up educational programs for safety-health personnel; authorizes Secretary of Labor to provide short-term training for safety-health personnel; requires Secretary of Labor to set up educational program for employers and employees concerning how to avoid accidents, etc. (sec. 20).	(b) Same.
(c) Also authorizes Secretary of Labor to make planning grants to the States (90% Federal participation) and also program grants (50% Federal participation).	(c) Same.
XIV. Economic assistance to small businesses No provision.	*XIV. Economic assistance to small businesses* Would amend the Small Business Act to permit loans to small businesses as are necessary and appropriate to assist them in meeting certain costs resulting from the enactment of the Occupational Safety and Health Act. (Sec. 22).
XV. Statistics No provisions comparable to those of substitute bill.	*XV. Statistics* Contains provisions to set up a full statistical program in response to one of the greatest needs in the field of occupational safety and health; that is, the lack of adequate statistical data to gage the nature and extent of job hazards. Program would include grants to the States; and the Federal share may be up to 50% of the State's total program cost.
XVI. Observance of religious beliefs No provision.	*XVI. Observance of religious beliefs* Provides that the act shall not be deemed to authorize or require medical examination, immunization, or treatment for those who object on religious grounds, except where such medical procedures are necessary for the protection of the health or safety of others.
XVII. Appropriation Such sums as may be necessary.	*XVII. Appropriation* Same.
XVIII. Effective date First day of the first month which begins more than 30 days after date of enactment.	*XVIII. Effective date* 120 days after date of enactment.

MINORITY VIEWS ON H.R. 16785

We had every confidence that in this session of Congress we would see the enactment of effective Federal legislation to bring about safe and more healthful working conditions in this country. That confidence was born of the fact of President Nixon's having recommended this legislation in three separate messages to Congress, including a special one devoted exclusively to the urgent and unique problems of job safety and health.

Our hope was sustained over the months by clear indications from majority members that while reasonable men might differ, any differences could be worked out so that we might achieve the goal of enacting a genuinely effective law to reduce job hazards. These indications of apparent willingness to overcome differences even led us to offer a completely new bill as a substitute for the Administration's original bill. And we were willing to reach further accord with the majority up until the final moments before the Committee reported out its bill.

Unfortunately, our efforts were in vain. In retrospect, the majority's willingness to work out disputed points proved to be illusory. In sum, the Committee had rejected the original Administration bill which had been carefully drafted to take account of the harsh but well deserved lessons learned from the 90th Congress' experience with occupational safety and health legislation. The Committee then rejected the Administration's substitute; and finally, spurning even our eleventh hour endeavors to produce a viable piece of legislation, the Committee reported out a bill which we had to vote against.

The measure as reported by the Committee is unacceptable because in rejecting the concept of an independent Board to set standards, the bill would create a monopoly of functions in the Secretary of Labor. Such a monopoly not only ignores the element of fairness to those required to comply with the Act, but also fails to resolve the jurisdictional division between HEW's responsibility for health and the Labor Department's for safety. In addition, the Committee bill does not overcome the widespread objection to permitting an inspector to close down a plant in imminent-danger situations. We regard this as a serious shortcoming. Lastly, the Committee bill contains a sweeping general duty requirement that employers maintain safe and healthful working conditions. This broad mandate is grossly unfair to employers who may be penalized for situations which they have no way of knowing are in violation of the Act.

I. GENERAL DIFFERENCES

The single most important difference between the Committee bill and the substitute is where and how, each would place the prime responsibility for providing safe and healthful working conditions.

The Committee bill follows the stock approach of placing all responsibility in the Secretary of Labor. He would set standards through a time-consuming and complicated procedure involving *ad hoc* advisory committees; he would enforce the standards, prosecute violations before Labor Department hearing examiners; and he again, would be the one to issue corrective orders along with assessing civil penalties.

The substitute bill, on the other hand, refocuses responsibility for job safety and health by distributing these functions. In an effort to stress the importance and nonpartisan nature of occupational safety and health, the substitute bill would create a new, top-echelon independent National Occupational Safety and Health Board to set standards composed of five members who would be appointed by the President solely because they are high-calibre professionals in the field of occupational safety and health. The members would serve at the pleasure of the President so that the independent Board does not become the captive of any special interest and remains responsible to the President.

The fact that the proposed legislation is concerned with working men and women is not sufficient reason for placing the standard-setting function under the Department of Labor. The Federal Mediation and Conciliation Service, the National Mediation Board, and the National Labor Relations Board, for example, are wholly concerned with matters pertaining to labor—nevertheless, they are entirely independent of the Department of Labor. Thus, there is ample statutory precedent for our proposed independent Safety and Health Board.

But even more significant is this. The members of the Board will not be appointed because they are Democrats or Republicans, pro-labor or pro-management, an approach which unfortunately has too often been followed in the making of appointments to Federal positions. The problems to be dealt with are not political, they are not primarily economic, they do not involve issues where there are deep differences concerning policy. To the contrary, these problems are almost entirely technical and technological. The appointment of an independent Board whose members must be highly competent professional experts in a field where the subject matter is almost wholly objective and susceptible to genuinely scientific and technical analysis, judgment, and decision, would inspire the utmost confidence in every segment of the American public.

And finally, the creation of a Board of this kind would more than meet the recommendations for a national advisory commission or for such a Board itself, which were made by the leading professional organizations in the safety and health fields, such as the National Safety Council, the American Industrial Hygiene Association, the American Academy of Occupational Medicine, the Industrial Medical Association, the American Society of Safety Engineers, and several of the State health or industrial safety agencies which testified in the hearings held during the present or immediately preceding Congress.

Aimed at providing both fair and uncomplicated procedures, the substitute bill would thus have the Board set standards, simply using the familiar procedures under the Administrative Procedure Act (APA). The Secretary of Labor would conduct inspections, and in violation cases, he would seek enforcement in the Safety and Health Commission created by the substitute and United States appellate courts in accordance with procedures which would provide appropriate equity remedies and assess civil penalties.

II. SPECIFIC SIGNIFICANT DIFFERENCES

1. Standards

The Administration's substitute bill provides very simply that the Board set standards according to the formal procedures of the APA. This means that a full hearing will be held so that a wide variety of views can be aired; and standards will be based on substantial evidence with an opportunity to cross-examine.

However, the substitute bill also recognizes that out-of-the-ordinary situations will arise in which the Board has to act quickly and should not have to go through a hearing before it can respond to these situations. Therefore, section 6(b) of the substitute bill provides that where it is *essential* to protect the health or safety of employees, national consensus standards or established Federal standards can go into effect *immediately* on publication in the Federal Register, and they will remain in effect until later superseded by standards promulgated through formal APA hearings.

Also, section 6(i) of the substitute bill provides that where employees are exposed to *grave* danger from exposure either to toxic substances or to hazards resulting from new processes, then the Board may issue new "emergency temporary standards". These too would go into effect immediately on publication but would remain in effect until superseded by standards promulgated pursuant to formal APA proceedings. The substitute requires the Board to start formal APA proceedings by publishing the temporary standard as the notice of proposed rule making, as soon as the emergency temporary standards are published. The Board is required to promulgate such standard within six months after the publication of the temporary standard.

The substitute bill provides that where an applicable national consensus standard, or an established Federal standard exists, then the Board would begin with those standards as the proposed rules for the hearings used to set permanent standards. If the standard as finally promulgated by the Board differs from the original proposed rule, then the Board must state its reasons for departing from the original.

The Committee bill would also set permanent standards through formal APA hearings, but before these hearings even begin, it would be necessary to go through an intricate maze of procedures involving assorted advisory committees. Whenever the Secretary wanted to set a standard under the Committee bill, he would have to appoint an advisory committee. This advisory committee has up to nine months to submit its recommendations to the Secretary and the Secretary may not begin any hearings until he has afforded the advisory committee the prescribed time to submit its recommendations. Although the Secretary may shorten this period, the Committee bill also provides that he may lengthen it; but there is an outside time limit of one year and three months.

After this excessive length of time, the Secretary has an additional four-month time period before he is required to hold a formal hearing on the advisory committee's recommendations.

If the committee does not submit recommendations on time (bearing in mind this can be up to well over a year), the Secretary may wait up to four more months before he has to schedule a hearing; the hearing begins 30 days after scheduling.

By simple arithmetic, we compute that under the Committee's bill, the Secretary of Labor might well have to wait close to two years before a formal hearing begins. This means that it may take him all that time just to catch up to the starting point of the Board's standard-setting procedure under the substitute bill.

It is understandable that the Committee bill would have to provide these excessive preliminary time lags. After all, it is going to take time to set up an array of *ad hoc* committees and more time still for each of them to undertake and complete their required assignments before they will be in any position to make their recommendations. However, no such time periods are needed under the substitute bill since a full-time, top professional National Board would be continually involved in standards-development and therefore needs only to commence a formal APA hearing when it seeks to set permanent standards.

2. Enforcement

The Committee's bill's enforcement provisions are as complicated as its standard-setting procedures, but the enforcement provisions present uniquely serious problems because due process is a matter of grave personal concern where enforcement is involved.

Under the Committee bill, the Secretary of Labor conducts inspections, holds hearings before Labor Department hearing examiners, and it is also the Labor Department which issues corrective orders and assesses civil penalties.

Unlike the Committee bill the substitute provides for an *effective* and *fair* method of enforcement. The Secretary of Labor would continue to be responsible for making inspections and investigations. However, a special permanent three-member administrative Occupational Safety and Health Appeals Commission would be appointed to conduct formal hearings on alleged violations which were discovered by the Secretary; and the Commission would issue any necessary corrective orders, as well as assess penalties. The Commission would utilize hearing examiners whose decisions would become final unless an appeal is made to the Commission.

3. General safety and health requirement

We strongly object to the Committee bill's sweeping general requirement that employers furnish safe and healthful working conditions. This was one of the first provisions which this Committee struck when it reported an occupational safety and health bill in the 90th Congress. Why it has not done so again is beyond our comprehension. The argument used in support of the Committee bill's general requirement is that a similar provision is found in the Walsh-Healey Act, the Service Contract Act, the Maritime Safety Act, and in the laws of some 35 States. This argument does not persuade us.

The Walsh-Healey and Service Contract Acts deal with the duties of those who contract with the Government. If a person freely contracts with the Government, then he assumes the responsibility for maintaining safe and sanitary working conditions as provided for in those two-procurement-related statutes. While the language of the requirement in those two laws may be general, its application could hardly be described as "general" since coverage under those Acts extends only to those circumstances to which the supply and service contracts themselves apply. Moreover, we understand that the general safety and health requirements of those two Acts have never been enforced in the absence of specified standards.

In the case of the Maritime Safety Act, the term "general" safety and health requirement is also a misnomer. The Maritime Safety Act applies to a single industry, s by force of circumstances, that Act does not contain a so-called general requirement like the one in the Committee bill which would apply to the whole spectrum of American industry.

States also do not have general safety and health requirements in the same sense as the Committee bill does. Not only do none of the States provide the wide and varied coverage of the Committee bill, but many State laws apply only to limited areas of activity such as boiler and elevator safety.

The objection to the very broad general safety and health requirement is not, of course, that there are no valid arguments to justify it. The offensive feature of such a provision is that it is essentially unfair to employers to require compliance with a vague mandate applied to highly complex industrial circumstances. Under such a mandate, the employer will simply have no way of knowing whether he is complying with the law or not, nor will the inspector have any concrete criteria, either statutory or administrative, to guide him in finding a violation.

On the one hand, the Committee bill recognizes this industrial complexity by providing for specific standards to be developed through the use of any number of advisory committees and public hearings. But the Committee does a turnabout, and requires the employer to follow a mandate which is almost as broad as "do good and avoid evil." We seriously doubt that the Committee bill could be enforced on the basis of this broad requirement; but if it could, we would be faced with the serious problem that there would be no incentive to develop any standards where such a broad mandate exists.

We recognize, however, that specific standards could not be fashioned to cover every conceivable situation. We would be remiss in our duty, if any worker were killed or seriously injured on the job merely because there was no particular standard applicable to a dangerous situation which was apparent to an employer. Hence, in addition to requiring employers to comply with the specific standards promulgated by the Board, and applicable to them, the substitute bill also requires each covered employer to furnish his employees employment and a place of employment which are free from any hazards which are readily apparent and are causing or are likely to cause death or serious physical harm to his employees.

III. CONCLUSION

Despite our criticism of various provisions of the Committee bill, we do not wish to convey the impression that we object to the bill in its entirety; quite the contrary. Many provisions of the Committee bill are in large part, satisfactory and comparable provisions are found in our substitute. Some examples are the State grants section, the provisions for State participation through the submission of plans, the carefully circumscribed employer-exemption provisions, and the Federal employee safety program. A few provisions, in addition to those discussed herein, are more questionable. Several other provisions of the Committee bill would be acceptable if they were modified.

However, we regard the establishment of an independent Board to promulgate standards and due process as essential provisions which cannot be omitted from any bill which genuinely purports to have the best interests of employees and employers as the basis for its enactment. Hence, we intend to offer our own proposal, which was rejected by the Committee's majority, as a substitute for H.R. 16785 as reported by the Committee.

WILLIAM H. AYRES.
ALBERT H. QUIE.
JOHN M. ASHBROOK.
JOHN N. ERLENBORN.
WILLIAM J. SCHERLE.
JOHN DELLENBACK.
MARVIN L. ESCH.
EDWIN D. ESHLEMAN.
WILLIAM A. STEIGER.
JAMES M. COLLINS.
EARL F. LANDGREBE.
ORVAL HANSEN.
EARL B. RUTH.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. In 1952, 6.5 million people or 4 percent of the U.S. population owned shares of stock. In 1969, the number of shareowners increased to 26.4 million or 13 percent of our population.

PANAMA CANAL: HEARINGS BEFORE HOUSE SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS, AUGUST 3, 1970

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, in previous addresses of mine on the interoceanic canal problem—House Document No. 474, 89th Congress—I have prescribed the Caribbean as our "fourth front" in which the Panama Canal is the "key target" for the Communist conquest of that strategic area, long ago described by Admiral Mahan as the "Mediterranean of the Americas."

Most appropriately, the Subcommittee on Inter-American Affairs of the House Committee on Foreign Affairs, of which my distinguished colleague from Florida (Mr. FASCELL) is chairman, between July 8 and August 3, 1970, conducted highly significant hearings on "Cuba and the Caribbean," in which various officials having special knowledge of their subjects testified.

Attached to my prepared statement was a "Memorial to the Congress" sponsored by the Committee for Continued U.S. Control of the Panama Canal bearing the signatures of eminent leaders in various parts of the Nation to which special attention is invited.

In the colloquies following my testimony, three main points were: U.S. sovereignty over the Canal Zone, the Panama Railroad, and the sea-level lock controversy.

As to the sovereignty question, the real issue is not United States versus Panamanian control, but continued U.S. sovereignty versus Communist control, and this is the question that should be debated in the Congress.

With regard to the Panama Railroad, I would stress that the overwhelming reason for that railroad is to handle transisthmian traffic in event of interruption to ship transits that could be caused by major landslides. In such event, this railroad would become an indispensable transcontinental link overnight with a great volume of traffic.

The third point is the moth-eaten proposal for a sea-level canal, which project hinges on the surrender of U.S. sovereignty over the entire Canal Zone to Panama.

To all realistic students of Panama Canal history and problems with whom I have discussed these matters, including many with direct responsibilities in the maintenance, operation, sanitation, protection, and military defense of the canal, the surrender of sovereignty as proposed in the discredited 1967 treaties is absolutely unthinkable.

In this connection, I would invite the attention of the Congress to four appointments that relate to Panama Canal policy questions, as follows:

Hon. Robert B. Anderson, Chairman of the Atlantic-Pacific Interoceanic Canal Study Commission.

Hon. John N. Irwin II, as Under Secretary of State.

Hon. Robert M. Sayre, U.S. Ambassador to Panama.

Hon. Daniel W. Hofgren, a member of the Panama diplomatic negotiating team.

Of the above officials, the first three were directly connected with the formulation of, or negotiation for, the 1967 surrender treaties. The last is a 33-year White House staff member with no Panama Canal or diplomatic experience, who has been given the task of treaty negotiation under Ambassador Anderson. It is

difficult to accept such a series of appointments as mere happenstances. In any event, they present a situation to which the Congress and the Nation should be alert.

For the sake of emphasis, I would state again that, in view of the extensive clarifications already made of the interoceanic canal problem, there are only two issues:

First, the question of retaining full U.S. sovereignty over the Canal Zone and Panama.

Second, the major modernization of the existing Panama Canal.

In order that the Congress and the Nation may be adequately informed in the premises, I quote as parts of my remarks my statement before the subcommittee at the indicated hearings, and the ably prepared statement of my distinguished colleague, the gentleman from Missouri (Mr. HALL); also the texts of the identical Panama Canal sovereignty resolutions now before the House and the identical bills for the Panama Canal Modernization Act that are pending in both House and Senate.

The material follows:

CUBA AND THE CARIBBEAN

HOUSE OF REPRESENTATIVES, COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS,

Washington, D.C., Monday, August 3, 1970.

The Subcommittee on Inter-American Affairs met at 2:30 p.m., in room H-227, U.S. Capitol, Hon. Dante B. Fascell (chairman of the subcommittee) presiding.

Mr. FASCELL. The subcommittee will please come to order.

We meet this afternoon to continue our hearings on Cuba and the Caribbean.

During the past 4 weeks, the subcommittee has inquired into many issues relating to this general topic. In the process, we have heard testimony from public and private witnesses, including high-ranking officials of the Departments of State and Defense and military commanders responsible for security operations in the Caribbean region.

These hearings have affirmed my deep conviction that the Caribbean region is of vital strategic importance to the United States, and that several factors introduced recently into that area have a direct bearing on our national and international security posture.

Among these are intrusion of Soviet naval and air units into the Caribbean; the worsening economic situation in Cuba, the Black Power movement on some of the islands; and the growing potential for violence bred, in part, by the unfavorable social and economic conditions which prevail in various parts of this region.

All of these things have a bearing on the future status of the major waterway of this region—the Panama Canal.

It is for this reason that the subcommittee invited Gen. George Mather, Commander in Chief, U.S. Southern Command, and Maj. Gen. Walter P. Leber, Governor of the Canal Zone, to meet with us. They appeared before the subcommittee on July 10.

Today we are pleased to welcome a distinguished colleague of ours, the Honorable Daniel J. Flood, Representative from Pennsylvania, who will address himself to these issues also.

I know that Congressman Flood does not need an introduction in this forum. He has broad knowledge on issues relating to the Panama Canal, and his leadership is recognized in the Congress and elsewhere. We are happy to have him here with us today, to share his views with the subcommittee.

STATEMENT BY HON. DANIEL J. FLOOD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. FLOOD. Thank you very much, Mr. Chairman.

It is a special privilege and interest for me to appear before this subcommittee, because, as you know, I first came to Congress in 1945, when I had the high honor and the great privilege of serving on my first committee, the Committee on Foreign Affairs of the House.

The great, beloved, and revered Sol Bloom of New York was then chairman, if anybody can remember back that far. I was assigned by interest to this committee, which was then the Subcommittee on the Western Hemisphere, but it is the same committee, and the same purpose then as now.

Now, the statement that you made identifying the importance of the Panama Canal with the whole subject that you have in mind, of course, couldn't be more pointed or more exact. The interoceanic canal problem in its overall aspects, is an immensely complicated subject, believe me; yet if it is reduced to its central issue, it is relatively simple, if you can believe that.

Whenever the Canal question comes up for national attention, two subjects always develop. First, the site, and second, the type and kind of canal.

Later on, as you know, when after the war we organized the Department of Defense, I was assigned and still am a member of the Appropriations Subcommittee for the Department of Defense.

In addition, you know, I was raised in St. Augustine, in Florida and my grandfather had a great interest in the Caribbean, and in the Isthmian area. So since I was a very young child, I have been in and out of this problem.

After a memorable struggle in 1902 known as the "battle of the routes," the President and the Congress, in the Spooner Act of that year, decided in favor of the Panama site and authorized the acquisition by treaty of the perpetual control of the Panama Canal with the Canal Zone to serve as its protective frame.

Now I have selected all those phrases with great care, after wondering about them for 10 years. Such control of the Zone was the absolutely necessary prerequisite demanded by the Congress and the Nation before assuming the large financial obligation involved in the construction and defense of the Panama Canal.

Later, in 1906, the President and the Congress, after thorough study and scorching debate, made a second great decision in favor of the existing high level lake and lock type canal, which was then constructed. History has established the wisdom of that determination, economically, operationally, technically and environmentally.

Today, the Panama Canal is in another era of decision. There are two major issues:

First, the transcendent question of safeguarding our indispensable sovereignty and ownership of the Canal Zone and Panama Canal; and

Second, the problem of the major modernization of the Canal. Mr. Chairman, all other interoceanic canal questions, however important, I suggest are irrelevant and should not be allowed to confuse these two major issues. Now there are a lot of them. They are a can of worms. But these are the two major issues. I can go on, like Tennyson's brook, about the related subjects, but I think you are concerned about these two major problems.

CONTROL OF THE PANAMA CANAL

As to sovereign control, it must be emphasized that, because of its strategic position as the crossroads of the Western Hemisphere, and the jugular vein of hemispheric defense as far as this Nation is concerned, the Isthmus of Panama has always been, and always will be, an object for predatory designs. Its loss to a potential enemy power is unthinkable, as recognized by the more than 100 Members of the House who have sponsored identical resolutions opposing any surrender at Panama, and I am advised there will be many, many more—in my opinion, a majority from both sides of the aisle.

MODERNIZATION OF THE PANAMA CANAL

The problem of modernization depends upon the reaffirmation by the Congress of our national policy as to Canal Zone sovereignty and Panama Canal control. The best way, in fact the only way to effect such a policy, is to maintain our present treaty rights and modernize the existing Panama Canal according to the well-known Terminal Lake-Third Locks plan will add 13,400—in the Panama Canal organization during World War II and eventually approved by President Franklin D. Roosevelt as a post-war project.

This plan, it should be especially noted, calls for a major increase of capacity and operational improvement of the existing canal and by all means, bear this in mind—does not require the negotiation of a new treaty with Panama. This is a paramount consideration, you can be assured.

The estimated maximum capacity of the existing canal is 26,800 vessels. The proposal that is now being made of the Terminal Lake-Third Locks plan, will add 13,400—making a total capacity, annually, of 40,200. There is no immediate need we are aware of in the immediate future, for this century, that would call for any more. If there are any other figures, I and my associates have never heard of them.

Many able and well-informed engineers, navigators, geologists, economists, biologists, nuclear physicists, defense and other experts strongly support the plan as offering the best solution of the canal problem. Such modernization should provide a capacity of, certainly 40,000 vessels a year at a minimum—at a minimum—including vessels of larger size, and there are identical bills to provide for it introduced in both the House and the Senate.

Moreover, previous Governors of the Canal Zone have approved the plan in principle and the present Governor has, as you have just mentioned, Mr. Chairman, addressed your committee on July 10, and he has expressed his belief that it is in the interest of the United States that the existing Canal be, and I quote the present Governor, "operated, maintained, defended, and augmented as necessary." (End of his quotation.)

Now, in official discussions of modernization plans, there is still mention of the 1939 Third Locks project along with the Terminal Lake proposal. I would like to clear this up. I have often heard this mentioned. Now there is confusion here.

The original Third Locks project that I mentioned to you, about which you have heard, does not provide for the elimination of the Pedro Miguel Locks and would perpetuate and compound the bottleneck at these locks. Any plan that fails to eliminate them is unworthy of any serious attention whatsoever and not be allowed to confuse.

At this point, it is well to record that the total net investment of the taxpayers of our country in the Panama Canal enterprise, including defense, from 1904 through June 30, 1968, was more than $5 billion. This sum, if converted into 1970 dollars would be, as you know, a far greater sum.

PROPOSAL FOR SEA LEVEL CANAL

In these general connections, it is important to remember that the much propagandized and costly "sea level" proposal hinges on—it hinges, this much publicized ditch—on ceding U.S. sovereignty over the Canal Zone and the Canal to Panama before constructing any new canal; and that a new canal, if constructed at the American tax-

payers' expense, would also be given to Panama without the least compensation.

It is hard for me to conceive of anybody dreaming up a thing like this, but it always raises its head. We thought we had it killed for several years, but it is a hydraheaded monster. It is back again. It is hard to believe this.

The chairman of the current Atlantic-Pacific Interoceanic Canal Study Commission, the Honorable Robert B. Anderson, a leading sea-level project advocate, was the chief negotiator for the discredited 1967 treaties.

Now listen to this: Notwithstanding this fact, he still heads our diplomatic team now reopening treaty negotiations with Panama. This is like sending the devil to investigate hell.

Throughout their treaty negotiations the members of our diplomatic team, and this should concern your committee personally, have steadily and studiedly and completely ignored the provisions of article IV, section 3, clause 2 of the U.S. Constitution that vests the power to dispose of territory and other property of the United States in the Congress—that is, the House and the Senate—and not in the treatymaking power of our Government—the President and the Senate.

So where better should I be today, than before a subcommittee of the House charged with responsibility in the field of Foreign Affairs?

In addition, our negotiators have also ignored the responsibilities of the United States under the Hay-Pauncefote Treaty and the rights of Colombia under the Thomson-Urrutia Treaty. Under the first, the United States is obligated to manage the Canal and under the second it has granted to Colombia important rights as regards both the Panama Canal and the Panama Railroad.

As to these, shipping interests in Great Britain and Japan have already made known their opposition to the proposed surrender at Panama, and Colombia has announced that it will defend its rights. In fact, the Colombian Government for many months has been collecting documentary material in the United States concerning this very canal question, which is most significant.

Now the foregoing facts together make favorable action on the pending sovereignty resolutions, I suggest, Mr. Chairman, a matter of the greatest importance. Time is of the essence as far as maintaining the position of the House under the Constitution is concerned. Time is of the essence.

In the interest of avoiding a possible misinterpretation of the resolutions, I would suggest changing the term—and I quote—"Panama Canal Zone" in the first whereas clause to "Canal Zone and Panama Canal", and the words "said canal" in line 4 of the resolve on page 3 of the resolution to "said Canal Zone and Panama Canal," primarily for clarification, out of an abundance of caution. Mr. Chairman; I have been through this before.

RAIL LINK RETAINED ACROSS ZONE

An example of the application of the wise Constitutional provision previously cited is the 1955 treaty with Panama, which authorized conveyance to that country of valuable U.S. property in Panama, including the Panama Railroad terminal yards and passenger stations in Panama City and Colon, subject to the enactment of legislation by the Congress—not the President and the Senate, but by the Congress—the House and the Senate.

It is appropriate to state that the House—and I had some small part in its action, you will recall—stepped into that situation and the House rescued the main line of that railroad from complete liquidation. Had it not been for such action by this House, this vital rail link, which would be so urgently needed in the event of interruption of transit because of possible major slides in Gaillard Cut, would have been abandoned.

Now in regard to a sea level project, either in the Canal Zone or Panama, that ancient and moth-eaten idea would involve a new treaty with a huge indemnity—you can imagine that—and a greatly increased annuity—you can be doubly sure of that.

TERMINAL LAKE-THIRD LOCKS CANAL MODERNIZATION PROJECT

The 1939 Third Locks Project, authorized primarily for defense reasons, at a cost of $277 million, did not require a new treaty. Construction on it started in 1940 and was suspended in May of 1942, with a total expenditure of $76,357,405, largely on huge lock site excavations at Gatun and Miraflores, which are still usable.

The current enlargement of Gaillard Cut, now nearing completion—and I recently saw it—was estimated to cost $81,257,097. Now together, Mr. Chairman, these two projects total more than $157 million toward the major modernization of the existing Panama Canal, which is much too large an expenditure to be swept under the rug—even by my Committee on Appropriations.

The solution of the problem of increased capacity and operational improvement of the Canal was developed as a result of World War II experience in the previously mentioned Terminal Lake-Third Locks plan for the existing canal. This major modernization can be accomplished at relatively low cost and, like the Third Locks Project, does not involve the negotiation of a new treaty with Panama. And that you must avoid like the plague—and they have that there, too.

CANAL ZONE AS A POLITICAL REFUGE

An important angle in the Panama Canal situation is that the Canal Zone has served many times as a haven of refuge for Panamanian leaders seeking to escape assassination by their political enemies in a very unstable political entity, the Republic of Panama.

The most recent example of the use of the Zone as an asylum was on June 8, 1970, when three colonels and a sergeant of the Panamanian National Guard escaped from prison in Panama City and found safety in the Zone. It is an island of security in a land of endemic revolution, endless political turmoil, technological incoherence, and which today, as is generally the case, is without a constitutional government.

Another case of such use of the Zone territory was by Senora Torrijos, wife of Brig. Gen. Omar Torrijos, on December 15, 1969, when she fled to the Canal Zone during an abortive revolt against her husband, the caudillo of Panama. Never a dull minute down there.

Mr. Chairman, I can't stress too strongly that were it not for the Canal Zone under U.S. sovereign control, some of the most brilliant leaders in Panama would have been assassinated. If the United States surrenders that Zone to Panama, as contemplated in the proposed new treaties, the Panama Canal would become a political pawn for the worst type of Panamanian politicians, and the Canal Zone the scene of guerrilla warfare and its inevitable cruelty and tragedy.

STRATEGIC IMPORTANCE OF PANAMA CANAL

For many years, the Caribbean has been recognized as the Mediterranean of the Americas. As far back as 1960, in an address to the House, I described it as our fourth front and the Panama Canal as the key target for the Communist conquest of that strategic basin. Subsequent events since then have justified my worst fears.

The surrender by the United States of the Canal Zone and Canal would inevitably result in a Communist takeover of Panama, as occurred in Cuba, which would include the Canal itself. With our country having given up its legal rights in the premises, it would be powerless to oppose.

Moreover, within the last year Soviet missile-capable submarines and surface vessels stationed in Cuba have been sighted in our fourth front. For these and many other reasons, some of them related to the security of the Panama Canal, the Southern Command, with its headquarters in the Canal Zone, should be maintained as essential to hemispheric security and not reduced in importance.

Fortunately for the United States, respected leaders in various parts of the Nation have studied the Canal problem and recently expressed their views in a "Memorial to the Congress." I would like consent to attach a copy of that memorial, which we have sent to your committee already, as part of an appendix to my statement.

Mr. FASCELL. Without objection, it is so ordered.

Mr. FLOOD. For these and other reasons, some of them related to the security of the Canal, this command I consider of prime importance. It is the only independent command identified with this problem in the entire Western Hemisphere.

Finally, I would summarize some of the principal lessons from my many years of study of this Panama Canal question:

We have a fine canal now; it is approaching capacity saturation, but not obsolescence.

We know how to maintain and operate it.

We know how to increase its capacity and operational efficiency, as demonstrated by years of experience.

We have a workable treaty with Panama although partly abrogated through ill-advised surrenders.

We have defended the lives of our citizens in the Canal Zone and the Canal itself by the use of our authority.

We have now reached the point where, if we do not make known our determination to hold onto this priceless asset of the United States, we may lose it to Soviet power, as happened at the Suez Canal, and one of their great targets, from the early days of Communist writing, is the control of key maritime communications: the Kiel, Suez and Panama Canals; the Straits of Gibraltar and Malacca; and the Strategic Caribbean and Mediterranean Seas. They have got their hands on them all.

Accordingly, Mr. Chairman, I urge prompt action by this subcommittee on the pending Panama Canal sovereignty resolutions and the printing of the 1967 hearings along with the present hearings, or as an appendix to the present hearings.

Such action should enable early adoption by the House of the resolutions and open the way for the long overdue major modernization of the Panama Canal, which we want done. Moreover, such action by the House would serve notice on the executive branch of the determination of the people of the United States to retain full control of both the Canal Zone and Panama Canal.

If there can be any reasonable doubt, a scintilla of doubt in any mind, in a referendum, nationwide, the people of this country would vote uncountably to do what I suggest.

With such resolutions adopted by the House, should be proposed treaties be sent to the Senate for ratification, some of my colleagues on both sides of the aisle have asked me to lead a march—there will be 200 of them, four abreast—from the House to Mr. Fulbright's committee, and ask to be heard.

Thank you, sir.

(The document referred to above, "Memorial to the Congress," follows:)

MEMORIAL TO THE CONGRESS

COMMITTEE FOR CONTINUED U.S. CONTROL OF THE PANAMA CANAL—1970 WASHINGTON, D.C.

Honorable Members of the Congress of the United States, the undersigned, who have studied various aspects of interoceanic canal history and problems, wish to express our views:

1. The construction by the United States of the Panama Canal (1904–1914) was one of the greatest works of man. Undertaken as a long-range commitment by the United States in fulfillment of solemn treaty obligations (Hay-Pauncefote Treaty of 1901) as a "mandate for civilization" in an area notorious as the pest hole of the world and as a land of endemic revolution, endless intrigue and governmental instability (Flood, "Panama: Land of Endemic Revolution . . ." Congressional Record, vol. 115, pt. 17, pp. 22845–22848), the task was accomplished in spite of physical and health conditions that seemed insuperable. Its subsequent management and operation on terms of "entire quality" with tolls that are "just and equitable" have won the praise of the world, particularly countries that use the Canal.

2. Full sovereign rights, power and authority of the United States over the Canal Zone territory and Canal were acquired by treaty grant from Panama (Hay-Bunau-Varilla Treaty of 1903), all privately owned land and property in the Zone were purchased from individual owners, and Colombia, the sovereign of the Isthmus before Panama's independence, has recognized the title to the Panama Canal and Railroad as vested "entirely and absolutely" in the United States (Thomson-Urrutia Treaty of 1914–22).

3. The gross total investment of our country in the Panama Canal enterprise, including its defense, from 1904 through June 30, 1968, was $6,368,009,000; recoveries during the same period were $1,359,931,421, making a total net investment by the taxpayers of the United States of more than $5,000,000,000. Except for the grant by Panama of full sovereign powers over the Zone territory, our Government would never have assumed the grave responsibilities involved in the construction of the Canal and its later operations, maintenance, sanitation, protection and defense.

4. In 1939, prior to the start of World War Two, the Congress authorized at a cost not to exceed $277,000,000, the construction of a third set of locks known as the Third Locks Project, then hailed as "the largest single current engineering work in the world." This Project was suspended in May 1942 because of more urgent war needs, and the total expenditures thereon were $76,357,405, mostly on lock site excavations at Gatun and Miraflores, which are still usable. Fortunately, an excavation was started at Pedro Miguel. The current program for the enlargement of Gaillard Cut is scheduled to be completed in 1970 at an estimated cost of $81,257,097. These two projects together represent an expenditure of more than $157,000,000 toward the major modernization of the existing Panama Canal.

5. As the result of canal operations during the crucial period of World War Two, there was developed in the Panama Canal organization the first comprehensive proposal for the major operational improvement and increase of capacity of the Canal as derived from actual marine experience, known as the Terminal Lake—Third Locks Plan. This conception includes provision for the—

(1) Elimination of the bottleneck Pedro Miguel Locks

(2) Consolidation of all Pacific Locks South of Miraflores

(3) Raising the Gatun Lake water level to its optimum height (about 92')

(4) Construction of one set of larger locks

(5) Creation at the Pacific end of the Canal of a summit-level terminal lake anchorage for use as a traffic reservoir to correspond with the layout at the Atlantic end, to permit uninterrupted operation of the Pacific locks during fog periods.

6. Competent, experienced engineers have officially reported that "all engineering considerations which are associated with the plan are favorable to it." Moreover, such solution:

(1) Enables the maximum utilization of all work so far accomplished.

(2) Avoids the danger of disastrous slides.

(3) Provides the best operational canal practicable of achievement with the certainty of success.

(4) Preserves and increases the existing economy of Panama.

(5) Avoids inevitable demands for damages that would be involved in a Canal Zone sea level project.

(6) Averts the danger of a potential biological catastrophe with international repercussions that would be caused by removing the fresh water barrier between the Oceans.

(7) Can be constructed at "comparatively low cost" without the necessity for negotiating a new canal treaty with Panama.

7. All of these facts are paramount considerations from both U.S. national and international viewpoints and cannot be ignored, especially the diplomatic and treaty angles. In connection with the latter, it should be noted that the original Third Locks Project, being only a modification of the existing Canal, and wholly within the Canal Zone, did not require a new treaty with Panama. Nor, as previously stated, would the Terminal Lake-Third Locks Plan require a new treaty.

8. In contrast, the persistently advocated and strenuously propagandized Sea-Level Project at Panama, initially estimated in 1960 to cost $2,368,500,000, exclusive of indemnity to Panama, has long been a "hardy perennial," and according to former Governor of the Panama Canal, Jay J. Morrow, it seems that no matter how often the impossibility of realizing any such proposal within practicable limits of cost and time is demonstrated, there will always be someone to argue for it; and this, despite its engineering impracticability. Moreover, any sea-level project, whether in the U.S. Canal Zone territory or elsewhere, will require a new treaty or treaties with the countries involved in order to fix the specific conditions for its construction; and this would involve a huge indemnity and a greatly increased annuity that would have to be added to the cost of construction and reflected in tolls, or be wholly borne by the United States taxpayers.

9. Starting with the 1936–39 Treaty with Panama, there has been a sustained erosion of United States rights, powers and authority on the Isthmus, culminating in the completion in 1967 of negotiations for three proposed new canal treaties that would:

(1) Surrender United States sovereignty over the Canal Zone to Panama;

(2) Make that weak, technologically primitive and unstable country a partner in the management and defense of the Canal;

(3) Ultimately give to Panama not only the existing Canal, but also any new one constructed in Panama to replace it, all without any compensation whatever and all in derogation of Article 17, Section 3, Clause 2 of the U.S. Constitution. This provision vests the power to dispose of territory and other property of the United States in the entire Congress (Senate and House) and not in the treaty-making power of our Government (President and Senate).

10. It is clear from the conduct of our Panama Canal policy over many years that policymaking elements within the Department of State have been, and are yet engaged in efforts which will have the effect of diluting or even repudiating entirely the sovereign rights, power and authority of the United States with respect to the Canal end of dissipating the vast investment of the United States in the Canal Zone project. Such actions would eventually and inevitably permit the domination of this strategic waterway by a potentially hostile power that now indirectly controls the Suez Canal. That canal, under such domination, ceased to operate in 1967 with vast consequences of evil to world shipping.

11. Extensive debates in the Congress over the past decade have clarified and narrowed the key canal issues to the following:

(1) Retention by the United States of its undiluted and indispensable sovereign rights, power and authority over the Canal Zone territory and Canal, and

(2) The major modernization of the existing Panama Canal.

Unfortunately these efforts have been complicated by the agitation of Panamanian extremists, aided and abetted by irresponsible elements in the United States which aim at ceding to Panama complete sovereignty over the Canal Zone and, eventually, the ownership of the existing Canal and any future canal in the Zone or in Panama that might be built by the United States to replace it.

12. In the First Session of the 91st Congress identical bills were introduced in both House and Senate to provide for the major increase of capacity and operational improvement of the existing Panama Canal by modifying the authorized Third Lock Project to embody the principles of the previously mentioned Terminal Lake solution.

13. Starting on October 27, 1969 (Theodore Roosevelt's birthday), more than 100 Members of Congress have sponsored resolutions expressing the sense of the House of Representatives that the United States should maintain and protect its sovereign rights and jurisdiction over the Panama Canal enterprise, including the Canal Zone, and not surrender any of its powers to any other nation or to any international organization.

14. The Panama Canal is a priceless asset of the United States, essential for interoceanic commerce and Hemispheric security. Clearly, the recent efforts to wrest its control from the United States trace back to the 1917 Communist Revolution and conform to long range Soviet policy of gaining domination over key water routes as in Cuba, which flanks the Atlantic approaches to the Panama Canal, and as was accomplished in the case of the Suez Canal. The real issue as regards the Canal Zone and Canal sovereignty is not United States control *versus* Panamanian, but United States control *versus* Communist control. This is the subject that should be debated in the Congress, especially in the Senate.

15. In view of all the foregoing, the undersigned urge prompt action as follows:

(1) Adoption by the House of Representatives of pending Panama Canal sovereignty resolutions; also similar action by the Senate.

(2) Enactment by the Congress of pending measures for the major modernization of the existing Panama Canal.

To these ends, we respectfully urge that hearings be promptly held on the indicated measures and that Congressional policy thereon be determined for early prosecution of the vital work of modernizing the Panama Canal, now approaching capacity saturation.

Dr. Karl Brandt, Palo Alto, Calif., Economist, Hoover Institute, Stanford, Calif., Formerly Chairman, President's Council of Economic Advisers.

Dr. John C. Briggs, Tampa, Fla., Chairman, Department of Zoology, University of South Florida.

William B. Collier, Santa Barbara, Calif., Business Executive with Background of Engineering and Naval Experience.

Dr. Lev E. Dobriansky, Alexandria, Va., Professor of Economics, Georgetown University.

Dr. Donald M. Dozer, Santa Barbara, Calif.,

Historian, University of California, Authority on Latin America.

Cmdr. Carl H. Holm, Miami Beach, Fla., Business Executive, Naval Architect and Engineer.

Dr. Walter D. Jacobs, College Park, Md., Professor of Government and Politics, University of Maryland.

Maj. Gen. Thomas A. Lane, McLean, Va., Engineer and Author.

Dean Edwin J. B. Lewis, Washington, D.C., Professor of Accounting, George Washington University, President, Panama Canal Society, Washington, D.C.

Dr. Leonard B. Loeb, Berkeley, Calif., Professor of Physics, University of California.

Howard A. Meyerhoff, Tulsa, Oklahoma, Consulting Geologist, Formerly Head of Department of Geology, University of Pennsylvania.

Richard B. O'Keeffe, Washington, D.C., Assistant Professor, George Mason College, Formerly Research Associate, The American Legion.

William E. Russell, New York, N.Y., Lawyer, Publisher and Business Executive.

Capt. C. H. Schildhauer, Owings Mills, Md., Aviation Executive.

V. Ad. T. G. W. Settle, Washington, D.C., Formerly Commander, Amphibious Forces, Pacific.

Harold L. Varney, New York, N.Y., Editor, Authority on Latin American Policy, Chairman, Committee on Pan American Policy.

B. Gen. Herbert D. Vogel, Washington, D.C., Consulting Engineer, Formerly Deputy Governor, Panama Canal Zone.

R. Ad. Charles J. Whiting, La Jolla, Calif., Attorney at Law.

(NOTE.—Institutions are listed for identification purposes only.)

Mr. FASCELL. Thank you, Mr. Flood.

We have a final vote pending on a bill on the House floor, and I guess we are all going to have to go and vote.

I have some questions I would like to ask you, if you would care to come back as soon as we answer the rollcall. I suppose my colleagues would like to do that. So why don't we recess until we answer the rollcall, and come right back in a few minutes.

Mr. FLOOD. Good idea. Thank you.

(Whereupon, a short recess was taken from 3 p.m. to 3:20 p.m.)

Mr. FASCELL. The subcommittee will please come to order.

I want to thank our colleague, the Honorable Dan Flood of Pennsylvania, for giving us this very concise and candid statement, with respect to the Panama Canal. We appreciate that he has made himself available to answer some questions, so that we can add to the record.

SOVIET STRATEGY IN THE CARIBBEAN

You raised the issue of Soviet or Communist designs on the Panama Canal. As I understand it, the point you are making is that as long as the United States retains sovereignty over the Canal Zone, those designs will not be implemented.

Mr. FLOOD. Well, Mr. Chairman, when I say the Soviets have designs upon the Panama Canal, I mentioned before we adjourned, part of the Soviet strategy—an excellent strategy and if I were there, I should do the same thing. They want the Kiel Canal, they want the Danube, they want the Strait of Malacca, they want the Suez Canal, they want the Panama Canal. They want to dominate and control the areas adjacent and contiguous to strategic maritime transportation arteries.

Obviously, when that is done, they have a fait accompli, and the Panama Canal would be a jewel in their crown. They have the Suez Canal; the Kiel is under a shadow. They have the Danube and the Bosporus Straits. If they just squeeze, they have the Dardanelles. They are in the Mediterranean now, up to your you-know-what; that takes Gibraltar. Also they are in the Caribbean in position to threaten the Atlantic approaches to the Panama Canal.

The import of sovereignty is exactly the situation which exists in the Middle East today—confrontation with the United States. They don't want that. And with sovereignty, they have it. Without U.S. sovereignty over the Canal Zone, you know what will happen to Panama; like a dose of salts, bing, they go Red, and they would be invited in.

As a matter of fact, Castro did send a hastily organized small expedition, you know, 2 months after he took over, to take the Panama Canal, but the local Indians took care of that with machetes.

Mr. FASCELL. In your opinion, then, if the Soviets established an equal presence in the Caribbean, using Cuba as a military staging base, this would present some real problems for the United States, whether or not we had sovereignty over the canal.

Mr. FLOOD. Of course. About 5 minutes after the British left the Suez, and Egypt took the Suez, Panama had emissaries in Cairo about 3 weeks later, saying, "How do you do this? How do you steal canals?"

INTERNATIONALIZING THE PANAMA CANAL

Mr. FASCELL. Do you feel that the same logic would apply if the canal—the operation of the canal—were internationalized?

Mr. FLOOD. Oh, I think the last thing in the world that any of the nations of the world, including Panama, would want would be to internationalize the Panama Canal. That would be the last thing they would want.

I think of the Japanese, who are now the great customers to the canal. You hear about the tremendous big oil tankers and other types that can't transit the canal. Well, by the year 1985, there would be probably about 33 million tons of cargo bypassing the canal in vessels too large to transit. I also think of the British, who are one of the greatest users of the canal. In our operation of the Panama Canal, we have meticulously met our treaty obligations for the vessels of all nations with tolls that are just and equitable. This is the reason why the users of the Panama Canal are so completely delighted with the way that we have managed it over the years. The last thing in the world that its biggest customers wish is that the canal be internationalized.

Mr. FASCELL. Mr. Culver.

Mr. CULVER. Thank you, Mr. Chairman.

I also wish to commend our most able, articulate and eloquent colleague from Pennsylvania for his customary excellent presentation of his views on this very complicated and important subject.

CONTROL OF THE PANAMA CANAL

I would, if I may, like to pursue the chairman's line of questioning further, to the extent to which we attempt to estimate what cost the U.S. Government must pay to maintain its present status in the Canal Zone.

For example, General Mather testified before this subcommittee that there is a deep undercurrent of resentment against U.S. sovereignty. He went on and called it "latent hostility," and I wonder, Mr. Flood, if you can envision an accommodation that could be formulated which would leave the United States in effective control of the canal for many of the important reasons you have outlined, but at the same time, be responsive to many of the Panamanian complaints, and avoid the kind of confrontation there that has characterized our overseas military presence in so many parts of the developing world, in view of the altered international situation.

I share the implicit concern, I think, that the chairman expressed when he talked about the extent to which conceivably a continuation of U.S. presence, no matter how effected, might well in fact prove to be far more successful in implementing Soviet interests in that area, to the extent to which it contributes to a continuation of this unrest, and as a symbol of American "colonial imperialistic presence," and so forth; and I wonder in view of this kind of problem that we face there, and face with regard to our military presence elsewhere in the world, if you could conceive of a way in which we could work out an accommodation that is more compatible with the modern world.

Mr. FLOOD. Well, let's see if I can give an analogy.

I indicated the Soviet intent, and it is a naked intent, there is no secret there. They have been talking about it for 40 years, about interoceanic communications.

But the Suez is not in Central America. Neither is the Kiel. The Panama Canal is. The Panama Canal is the jugular vein of the hemispheric defense, and say what you will, and with all the poses that they strike, in many of these Latin countries—and the smaller the country, the more elaborate the uniform—you know as well as I that anybody who strikes the Western Hemisphere at any part of it strikes us. This is hemispheric defense.

This, I repeat, is the jugular vein for such defense. We have experienced problems with the Pacific before. We had two divisions, one through the canal, one en route, when World War II ended.

You have this can of worms in South Vietnam or Southeastern Asia, whatever it is going to be, and I can envisage, as can you, that part of the Communist chain from Australia through the Islands through Alaska, and we must have a zone of defense to fall back on, what? The Philippines? The Islands? Maybe back to Hawaii.

Now, the canal is a means not only of economic communication, which was the real basis for its birth—the defense structure has developed since then, with the development of this Nation—but to work out an accommodation, why, of course, you are a legislator, your business is the art of compromise, to work out; but when you say that there is unrest in Panama, that has nothing to do with the canal. There would be unrest in Panama with or without this canal, with a new sealevel canal, with a half dozen canals. Panama is that sort of a place. It is unfortunate, as is Poland. Its worst enemy is geography. And there she is.

SITUATION CHANGED SINCE 1903 TREATY

Mr. CULVER. Would you not agree that the ability of the United States to maintain its control and its influence and protect all its very real military and strategic and economic interests there, as originally envisioned in 1903, is markedly different than the world in which we are required to operate today. Further, that Panama today, politically speaking, is an entirely different atmosphere in which to work out relations with this hemisphere generally?

Mr. FLOOD. I would like to borrow your argument. The only thing wrong with your argument is that I didn't think of it. That is the strongest statement I have heard made at this table today for my position. Precisely. It isn't 1903, it is 1970, and the horizon—there is no horizon. The situation has changed but has changed for the worse. Instead of surrendering the Canal Zone, it should be extended to include the entire watershed of the Chagres River.

Mr. CULVER. Wouldn't that call, though, for an entirely different formulation with regard to U.S. presence and the nature of it and the extent of shared control and influence, on something as sensitive to their own national interest?

Mr. FLOOD. I am very fond of these people. I have known them all my life. When you say they are "Gringo, get out!" types, that is not the people of Panama. You go to the Indians. You have trouble in the city. You have trou-

bles in all cities. We have them within two blocks of here.

Panama City is not Panama. "Have you ever been to the United States?" I say to an Englishman; "Oh, yes, I have been to New York." And somebody says to me, "Have you ever been to China?" "Yes; I was in Shanghai."

Now, New York is about as much America as Shanghai is China. The city of Panama is not the people of the Republic of Panama.

Mr. CULVER. But you take the recent example, if we could turn to it for a moment, you mentioned the South Pacific. Take the case of Okinawa, and the recently concluded arrangements there, concerning the revised nature of U.S. continued military presence on that particular——

Mr. FLOOD. I have no quarrel with that whatsoever.

Mr. CULVER. And the direct correlation and link-up to the domestic political consequences within the nation of Japan in the absence of making some sort of a modification, even though admittedly, we would argue that in the abstract, it is contrary to our national interest.

Mr. FLOOD. I agree, I agree, but there is the development of time, and we can see the element of time there.

And our need is at this time, I find no quarrel with that. I wouldn't do it, but I find no quarrel.

But I see no analogy with my jugular vein, my southern flank, wide open.

Mr. CULVER. I think the analogy I would submit might be that this was a very enlightened accommodation, very much in the strategic national interests of the United States, and in the absence of which, an alteration of that kind or similar to it, we ran the very real risk, in case of a major confrontation with China, for example, or some other situation in Southeast Asia, that we would be denied the utilization of even Japan itself.

In some mutual security endeavor, if we didn't work out some way to bring about a damping down of the political unrest that was being stirred up by this mutual security arrangement of Okinawa, and may well be responsible in bringing about the type of government in Japan, politically speaking, that would deny us the utilization or access of any facilities, which are of paramount importance to our national security interest. So turning again to Panama, is it possible at all, to your way of thinking, that if we continue to allow what is admittedly a source of friction and political instability and military instability to fester, without any initiative or enlightened concession by the U.S. Government, that this may bring about an increased likelihood that this very vital economic and military link would no longer be available to us a handful of years down the road?

Mr. FLOOD. Well, of course, this is a matter of degree. When you look at the original treaty, when you look at the arrangements with the Republic of Panama, when you look at the pots of gold that have fallen from this rainbow into this totally technologically ignorant, endemically unstable people, the employment rates, the thousands and thousands of people, Panamanians, that we employ, the wage scales they get, do you think those people want to see some of these Graustarkian generals in Panama take over that place?

Neither do we.

Mr. CULVER. Well, in terms of national pride and self-interest, which has a very irrational and emotional power all its own——

Mr. FLOOD. Oh, yes.

Mr. CULVER. It is probably the most powerful——

Mr. FLOOD. The Latino is very sensitive.

Mr. CULVER. Undoubtedly the most powerful political movement in the world today.

Mr. FLOOD. We have it here, in our country.

Mr. CULVER. But this chauvinism, therefore, I wouldn't underestimate, and, turning to cost, what do the Panamanians now get for the United States presence in the zone and U.S. control over the canal?

Do we have some figures?

Mr. FLOOD. Their very economic existence—period. Their life's blood. Their existence. We gave birth to them. We have nurtured them, trained them, educated them, fed them, paid them. In fact they call the canal their "lunch counter."

Mr. CULVER. Mr. Flood, do you think someone could possibly provide income figures for the record?

Mr. FLOOD. I would think so.

Mr. FASCELL. We either have it in the record or we will get it for you. The actual revenues, I think, are in the order of $2½ million a year.

Mr. FLOOD. Just a few years ago——

Mr. CULVER. But it is $2 million a year in the canal; their share of canal tolls, for example, is $2 million a year.

Mr. FASCELL. I don't remember the exact figure.

Mr. CULVER. That is the figure I am familiar with.

Mr. FASCELL. We either have it in the record, or will get it.

Mr. FLOOD. Oh, I think that would be excellent.

(The United States pays Panama an annuity of $1.93 million pursuant to the provisions of Article I of the 1955 Treaty of Mutual Understanding and Cooperation between the United States and Panama.)

Mr. CULVER. How much does the United States collect from toll fees?

Mr. FLOOD. You mean in dollars?

Mr. CULVER. Yes, sir.

Mr. FLOOD. Well, everything we collect, by the millions a year, we turn back to the General Treasury. The Canal Company and the Panama Canal Zone are two separate and distinct things. The zone is a governmental agency, and the company is commercial concern, operated on a self-sustaining basis.

Mr. CULVER. But does the U.S. Government——

Mr. FLOOD. It all goes back to the U.S. Treasury. It is a self-paying thing; we do not subsidize this thing.

Mr. CULVER. That's the thing I wanted to bring out.

Mr. FLOOD. It is self-paying.

Mr. CULVER. The United States is making money now off the canal's operation; we don't subsidize it?

Mr. FLOOD. We never did, except the original investment. We have a $5 billion investment. But you can have that much in, no matter what you do. The fact remains that that investment is there.

But as far as the dollar by dollar, month by month, week by week, ship by ship, that washes itself out, and reverts to the Treasury. So in other words, there is no millstone around our neck, as a cost, as a debt of any kind. Moreover, U.S. isthmian activities, directly or indirectly, inject more than $100 million annually into the Panamanian economy.

Mr. CULVER. Thank you, Mr. Chairman.

Mr. FASCELL. Mr. Roybal.

STANDARDS OF EMPLOYMENT IN THE CANAL ZONE

Mr. ROYBAL. Mr. Flood, the Panamanians that I have had the opportunity of talking to complain that there are two standards in the zone.

Mr. FLOOD. The silver and gold standard?

Mr. ROYBAL. No, sir. That is the employment standards, that the Panamanians do not get the same salary doing exactly the same work as an American.

Now to what extent is this actually helping or hurting relations?

Mr. FLOOD. Well, of approximately 16,000 employees of the Panama Canal, say, 12,000, as of this afternoon, are Panamanians; 4,000, say, are Americans. Now they are getting a wage scale, paid by us, far greater than what they would get for the same kind of work any place in Panama, for the Government or private contractor, doing the same kind of things.

Mr. ROYBAL. But the American who is doing exactly the same kind of work, then, is getting a salary that far exceeds the amount that a Panamanian receives?

Mr. FLOOD. That is only in certain categories, supervisory categories, although now in the last treaty we have brought into the supervisory categories at the highest levels many, many Panamanians under the treaty just a few years ago, and I see nothing wrong in that, if they are capable, and many of them are.

Mr. ROYBAL. Don't you think this should have started many years ago, instead of just recently?

Mr. FLOOD. Yes, yes, of course I do. Of course, I do.

Mr. ROYBAL. Do you believe then that over the years, this particular situation perhaps is responsible for some of the unrest that exists in the zone?

Mr. FLOOD. Yes. Yes.

Mr. ROYBAL. And what can we do further to correct it?

Mr. FLOOD. Well, I think first of all, you should discuss this matter with your labor unions that exist there. There are problems within the labor unions, which I would be the first to want to sit with you, and be sure they were clear about it.

There is no intent on the part of this Government, of the Panama Canal Goverment or the Panama Canal Company to discriminate against the Panamanian merely because he is a Panamanian.

Mr. ROYBAL. But the truth of the matter is that he has been discriminated against.

Mr. FLOOD. The truth of the matter is that that has been improved a thousand percent, and up until a few years ago, 10,000 percent, and will be improved further, and should be.

Mr. ROYBAL. And maybe the net profits that are made both by the company and the zone have been as a result of exploitation that has been going on with regard to employment.

Mr. FLOOD. No, no. That is begging the question. No, this is not so. The maintenance of the operation of this canal has been one of the major engineering miracles in the history of man. That's what has done it. Efficiency, operations, maintenance and management, not mere hands.

You need those to do it, but to suggest that because this was an aggrandizement, that this was some great American corporation, who achieved its opulence in the mauve decade, by bleeding its workers—now nobody, I never heard that said, until this minute.

Mr. ROYBAL. Well, I have heard it said many times. And I have also seen——

Mr. FLOOD. What, the accumulation of funds by America, by the United States, after a $5 billion investment, was the result of making slaves out of the Panamanian workers?

Mr. ROYBAL. No, but that the profits that have been derived from that operation resulted from the exploitation of individuals who were paid less than the wages paid Americans.

Mr. FLOOD. Mathematically, I suppose it would work out. If one man gets $10 and another gets $5, then you are ahead $5 some place. I am sure that is so. Yes. But it is certainly not a causus belli. It is not a gut issue. It is certainly not one of the two things that is before this House on the sovereignty and the operation of the canal. There are many other things.

Mr. ROYBAL. But it is a thing that——

Mr. FLOOD. I could talk to you here all night about it. I mean, many legitimate complaints. No question about that. I know of many. You know I know. I have talked to these Spaniards. I know. I have talked with them for years, oh, yes.

Mr. ROYBAL. Well, if we want something said that we don't want anybody else to understand, perhaps you and I could carry on a conversation in Spanish.

Mr. FLOOD. Let's keep this clear.

Mr. ROYBAL. That's all, Mr. Chairman.

Mr. FASCELL. Well, as a matter of fact, in the last treaty negotiations, we made many of the corrections of inequities dealing with——

Mr. FLOOD. Which both of these gentlemen are talking about, oh, yes, and more will be made. More will be made.

Mr. FASCELL. There are still some unresolved economic questions, but nothing that doesn't lend itself to an accommodation; is that correct?

Mr. FLOOD. There is no question about that. Of course not. I would be the first to say so.

Mr. FASCELL. In other words, you support accommodation, so long as it doesn't mean the dilution of U.S. sovereignty. That is your position?

Mr. FLOOD. That is correct. I would be their spokesman. I would be the devil's advocate.

Mr. CULVER. Mr. Chairman.

Mr. FASCELL. Mr. Culver.

1967 PROPOSED DRAFT TREATIES

Mr. CULVER. At that point, just so the record is not ambiguous on this point, on page 4, Mr. Flood, of the prepared statement, when you make reference to, you know, the role of Mr. Anderson, in the continuing negotiations, and you say, and I quote: "was the chief negotiator for the discredited 1967 treaties," could you be a little more specific, then, for purposes of the record—which aspects?

Mr. FLOOD. Well, of course, it is my term.

Mr. CULVER. Yes, sir.

Mr. FLOOD. I have—I can't put an imprimatur on the word "discredited." I dictated the statement. I say that the intent to propose the under-the-table efforts, the hanky-panky that went on—if you sit on Defense Appropriations, you hear about Flood's spies. Well, I don't have a crystal ball. I have big ears.

I have extraordinary sources of information, as you do. People wonder, "How do you know about this thing, this gun, or that airplane?" Big ears. And spies. Whenever these things develop, they are brought to my attention.

Mr. CULVER. But just speaking here——

Mr. FLOOD. And these treaties, this was an effort by certain levels of the State Department, these faceless wonders, who still exist, and it is like trying to pick up a handful of quicksilver to try and do any good with them.

I was on this committee, you know; I was chairman of the subcommittee. I went all through this. I was present for the first meeting of the United Nations. I was present for the accouchement. I know these people, and every once in a while I still bump into one of them, still alive and breathing. It is hard to imagine, but he is still there: faceless, nameless, but dauntless, and they do these things.

And they have this concept that this should be done, that sovereignty must be abandoned, and then, as you say, in this proposed treaty, and then, of course, a brilliant reporter on the Chicago Tribune got a hold of the treaties, and in the meantime they were going around like this—the State Department—and the entire Government, the Kennedy administration, the Johnson administration, and now the Nixon administration, have been trapped by the same people.

Mr. CULVER. But when you make reference, then, Mr. Flood, to the discredited 1967 treaties, the cause of your criticism in that regard is the erosion of sovereignty, of our national sovereignty.

Mr. FLOOD. Yes, the public revulsion. In the House, 150 Members of this House, overnight, nationwide, when the press, the news media, carried this story——

Mr. CULVER. As to how the treaty was arrived at, distinguished——

Mr. FLOOD. No, what they proposed to do. First of all, loss of sovereignty.

Mr. CULVER. Loss of sovereignty?

Mr. FLOOD. And that discredited the treaty.

Mr. CULVER. And yet, in response to Mr. Roybal's question, you did say you specifically welcomed the initiatives in the labor field, for example.

Mr. FLOOD. Oh, yes.

Mr. CULVER. Which did represent an erosion, a diminution of American control.

Mr. FLOOD. I agree with that.

Mr. CULVER. So it wouldn't be really a blanket denial or resistance to certain accommodations, given the political realities in which we are forced to operate today.

Mr. FLOOD. Of course, sovereignty is an absolute thing. You can't be just a little bit pregnant.

Mr. CULVER. Well, for example, take our sovereignty, you know, with regard to our Okinawa military interests.

Mr. FLOOD. That is not sovereignty. That was by right of conquest. We occupied. This is a different rule of international relations. We occupied Okinawa by right of conquest. That is a different breed of animal.

This relationship is a treaty between sovereign states.

Mr. CULVER. But certainly, you indicate, you certainly imply here, that you recognize the necessity to review and to take, you know, corrective action in terms of where a mutuality of interest has to be sustained, and certain problems presented themselves that would make a continuation of that arrangement impossible in the absence of military force.

Mr. FLOOD. You know my history in this. I would be the first, certainly, to agree.

Mr. CULVER. Well, what about some additional steps, like——

Mr. FLOOD. I am no right-wing, breast-beating conservative, finding a Communist under every table with a bomb. I haven't been, in 25 years. I am not that. But, I can see both ways.

Mr. CULVER. What about some of the suggestions that have been advanced concerning the adoption of a joint court system in the zone, or some alteration in the U.S. commissaries there, to provide for——

Mr. FLOOD. This should be discussed. This should be discussed. One of the great purposes of President Theodore Roosevelt was to avoid the recriminations and conflicts that always accompany extraterritorial rights.

Mr. CULVER (continuing). An alleviation of some of the political pressures?

Mr. FLOOD. This sort of thing should be discussed. That wouldn't upset me a bit. Within the rule of reason, of course.

QUALITY OF U.S. SOVEREIGNTY

Mr. FASCELL. Mr. Flood, what is your position—and I know you have discussed it before, but I would like to get it on this record—with respect to the absolute quality of sovereignty? The 1903 treaty raises the question, at least as far as the Panamanians are concerned, that sovereignty in this case was not meant to be absolute, because there is a residual right, territorially, at least, to the ownership of the land itself.

Mr. FLOOD. The right and title, the sovereignty of the United States, was in perpetuity. And I understand the perpetuity to mean just one thing. I can't translate it. Perpetuity is an absolutism.

Mr. FASCELL. Well, I don't have the language of the treaty here before me.

Mr. FLOOD. Well, that's the catch. That's the phrase which is the heart and merit of your position.

Mr. FASCELL. Well, it is not my position.

Mr. FLOOD. I mean the position as stated.

Mr. FASCELL. But the question is whether or not under the 1903 treaty, title in the land in perpetuity actually was transferred? And whether or not, when the property ceased being used for the purposes for which exclusive sovereignty was granted, it would revert to Panama. That's the issue.

Mr. FLOOD. Every piece of private property that was in the Canal Zone was purchased by the United States, at an agreed price, and paid for, and title became absolute, as far as your real estate law. It is an absolutism. Now, even——

Mr. FASCELL. I understand what you are saying, Mr. Flood, but I am merely saying the issue has been raised in the last hearings we had in this subcommittee, that it is an issue, legal or otherwise——

Mr. FLOOD. Oh, I have heard it raised many times, but by the way, even with a title in fee, at least in my State, there can be a residuary, but that does not affect the title in fee, and that is an absolutism.

Mr. FASCELL. Well, the question, of course, is: If you have a residual right, do you or do you not have the entire title?

Mr. FLOOD. Oh, this is not a residual right.

Mr. FASCELL Well——

Mr. FLOOD. It affects—under an absolute title in fee, it amounts to a grant. But there is no reservation of title.

Mr. FASCELL. All right.

Mr. FLOOD. In perpetuity, the sovereignty is absolute.

Mr. FASCELL. I understand your position, and I agree the legal interpretation——

Mr. FLOOD. I don't want that to affect these other things we are talking about at all. These are different things.

Mr. FASCELL. It does affect the question, though, whether or not, in carrying out any kind of accommodation which might be compatible with modernization and the necessity for improving the canal, how far you can go. That's the issue.

You see, for example, some people took the position that flying the Panamanian flag alongside the American flag at certain designated places in the Canal Zone was a diminution of U.S. sovereignty.

Mr. FLOOD. Well, you have breast-beaters any place.

Mr. FASCELL. Yes.

Mr. FLOOD. That leaves me utterly cold. The fact that a few barefooted boys with a little free fusel oil, crossed the border and ran up a flag, and got tangled up with a lot of American high school students—I have seen things worse than that happen in my own district, on pay nights in the coal field.

Believe me, this doesn't affect sovereignty, or the major issue here as between sovereign states.

Mr. FASCELL. Mr. Bingham, did you want to inquire at this point?

Mr. BINGHAM. No, thank you, Mr. Chairman.

TERMINAL LAKE-THIRD LOCKS PLAN

Mr. FASCELL. Mr. Flood, you mentioned two plans. Could you describe for the record, the difference between the Third Locks plan and the Terminal Lake-Third Locks plan.

Mr. FLOOD. Oh, yes; they are two things.

Mr. FASCELL. Right.

Mr. FLOOD. As I mentioned, the 1939 Third Locks plan had the fatal defect of in no way eliminating the appalling bottleneck, the technical bottleneck, and the actual bottleneck at the Pedro Miguel locks.

Now that question must be the first engineering question resolved. The Pedro Miguel bottleneck lock must be eliminated, then take all of locks south of the Miraflores into one lock; then you establish a new lock, and then you create a terminal lake on the Pacific side, which is the same thing as you have on the

Atlantic side, and to do exactly the same thing, raise to the proper level, and that is the Achilles heel of the present technical operation—the failure to have a terminal lake.

Now the combination of both is what we call the Terminal Lake-Third Locks plan; it is the combination of the two.

Now that eliminates the Pedro Miguel lock, creates a terminal lake at the Pacific end, and you have no problem then, for it mitigates the problems we have on the Pacific end, of fog and lockage surges, by having this terminal lake. Also it would provide a summit-level anchorage where you can assemble vessels for transit which now you can't do on the Pacific side, and it is a grievous problem. And the Miguel lock thing is just simply awful.

Mr. FASCELL. Now the Terminal Lake-Third Locks plan—studies on that have been completed?

Mr. FLOOD. Oh, yes. But there is still much to do.

Mr. FASCELL. And the issue for resolution is now pending, where?

PROPOSAL FOR SEA LEVEL CANAL

Mr. FLOOD. Well, there is a Commission in this country and commissions in this town, there are commissions upon commissions—it has cost us $24 million so far for us to give birth to this, and I knew that day they were appointed, they would merely change the color on the last report—they got blue—and two or three graphs, and a couple of charts, $5 million; it is now $24 million. They are now down in the rain jungles and the swamps of the Colombian border, searching for a site to build a canal.

My own grandmother wouldn't build one down there, and they know it. They know it prefectly well. I know where the site they propose is; so do you; but they are going to file a $24 million report from the Commission.

Mr. FASCELL. You mean on the Colombian side or the Terminal Lake-Third Locks plan?

Mr. FLOOD. No. They will have a record, it will have probably a green cover this time, but we will have spent the $24 million. They will espouse—the Ambassador is wearing two hats—that is why I say you are sending the devil to investigate hell. He is bringing this young fellow—what's his name? I never heard of him—some youngster from the White House is going down there, 33 years old, as Ambassador, and he is going to be in charge of carrying out orders to put that canal there, at sea level.

Mr. FASCELL. What do your informants tell you? Has he done anything yet? I haven't heard that anything has been done yet.

Mr. FLOOD. He is about to give birth to it, yes.

Mr. FASCELL. Birth to what, another canal?

Mr. FLOOD. The treaties which would reduce the sovereignty in the canal, yes, and don't forget it——

Mr. FASCELL. You mean, it is because this Presidential Ambassador has now been appointed, the fear that he is about to negotiate——

Mr. FLOOD. Under Mr. Anderson, and they are about to come up through the Army Engineers with this report, and I can tell you the conclusion now, give you the——

Mr. FASCELL. Not for modernization?

Mr. FLOOD. Oh, no, no. This is for the new canal.

For modernization, they have the report, and I submit, and I would suggest you examine it, by investigation; it is the outstanding authorities in the world who are concerned about this, recommend the Terminal Lake-Third Locks system, and consider this sea level canal to be—they could not find a good reason.

Now it is going to be built by nuclear power—fissionable material.

Mr. FASCELL. I thought that had been discarded.

Mr. FLOOD. Oh, everything they have drawn up has been totally discarded. The last thing was they are going to build it by fissionable material, which would kill everybody within 10 miles of the canal, so they said "Well, that's not a good idea."

ECOLOGICAL EFFECT OF SEA LEVEL CANAL

Mr. FASCELL. Well, wasn't there also a tremendous environmental problem, ecological problem, with the sea-level canal?

Mr. FLOOD. Oh, yes, and who in the world would be better concerned than you, Mr. Chairman, from Florida? The ecological problem is bringing in these sea snakes, which are worse than the cobra, from the Pacific, knocking out this pocket of fresh water, and infesting every beach from Virginia to Brazil.

Mr. FASCELL. Well, we have some sea snakes that are doing some infesting, but they didn't come from——

Mr. FLOOD. They have got two legs, though, those fellows. I know them. They have got two legs.

Mr. FASCELL. Are you familiar with the Kearney report, Mr. Flood?

Mr. FLOOD. I have excerpts from it; yes.

Mr. FASCELL. Then you are talking about the feasibility——

Mr. FLOOD. May I add this? About these objections. You know, the first objection about this canal was naval gunfire. "You can't build this canal because the navies of the world will destroy it with naval gunfire." Well, that was in 1905.

Now when the gunfire thing didn't work out, naval gunfire, well, all of a sudden we had bombers, World War II. "Got to have a sea level canal, because the bombers will destroy the Panama Canal." Well, that didn't stand up very well.

Finally, the atomic bomb. Well, of course, you can destroy any canal. If you want to destroy a sea level canal, or any, you can destroy anything you want to. No question about that. No question about that at all.

There is nothing sacred from destruction, the way we are operating today in the military sense. But all of these, every year, you have these proponents of the canal come up with some weird ideas as to the danger of the existing canal, or modernizing it, or the tremendous advantage of the sea level canal.

And this goes on and on and on like Tennyson's brook. It just doesn't stop.

This is a discredited thing, internationally, except that there is residual remainder, the palace guard. The old guard dies, but never surrenders, and they will pop up out of any place over the sea level canal.

(Representative Flood subsequently furnished the following statement:)

AUGUST 3, 1970.

BATTLE OF THE LEVELS—A SUCCESSION OF BUGBEARS—BY HONORABLE DANIEL J. FLOOD

The story of the modern "battle of the levels", is merely a continuation of age-old arguments over type of canal.

In 1905–06, it was the alleged danger from *naval gunfire* used by sea level advocates, who were overcome by the knowledge and vision of John F. Stevens backed by President Theodore Roosevelt.

In 1939, it was the alleged danger of *enemy bombing*, which led to the Third Locks Project failure.

In 1945, it was fear of the *atomic bomb* that resulted in the abortive 1945–48 investigation under Public Law 280, 79th Congress, which recommended only a "sea level" canal on the basis of its alleged greater security. This recommendation failed to receive the approval of President Truman because of the clarification in the Defense Department of the fallacies in the application of the security and national defense factors in the statute.

In 1964, it was the danger of sabotage from *"two sticks of dynamite"* that led to the present inquiry.

Now, in 1970, it is the danger of "guerrilla warfare".

From the foregoing the pattern is clear; change the bugbears of justification when earlier arguments prove ineffective.

The defense needs of the Panama Canal are for the existing canal and not for some hypothetical waterway that may be constructed in the indefinite future.

Moreover, the defense of the Canal, like that of the major ports and rail systems of the United States depends not upon passive features of design, but the combined power of the Armed Forces of the United States.

MODERNIZATION OF PANAMA CANAL

Mr. FASCELL. We have had testimony before this committee that indicates that studies which have been made with respect to both economic feasibility and engineering feasibility indicate that the present canal could be modernized to take us to the year 2000, in very good shape.

Mr. FLOOD. Well, of course, a sea level canal would cost you $3 billion. You have got $157 million in the present canal now as developed by the Third Locks Project and enlargement of Gaillard Cut. In a very short period of time, the terminal lake proposal can be done, at a minimal figure, or as fast as your need to meet the demands for transit. I tell you that 40,200 annually—and it will be a long, long generation, and a century, before you will have 40,200 ships. And the existing canal, modernized, can do that.

Now don't let them tell you about, "Well, look at the big ships that are being built that can't go through the canal." For every big ship in the year 1985 that can't go through the canal, but goes around the Cape, there will be 300 that will go through it. Besides, those super vessels are built for the purpose of avoiding going through any canal and paying tolls.

USE OF RAIL LINE IN CANAL ZONE

Mr. FASCELL. I have ridden that train in the Canal Zone—or is that outside—and I have a hard time accepting your statement that it is a vital transportation link.

Mr. FLOOD. Oh, no, vital in this sense: Nothing concommitant with the canal—and I am not speaking about the seat you ride in, like an amusement park. I don't mean that at all. I mean that mere railroad, where it is, with the two terminal controls, and we had to stop them.

Now, in that treaty we gave them their terminals of the Pacific and the Atlantic, the terminal buildings, the stations, we call them, in this country. And for people who can't even keep the sewage and the garbage clean in their streets, to run a canal, they made a mess of the two buildings that we shouldn't have given them in the first place.

Thank God, the Congress saved the railroad.

Mr. FASCELL. Yes, but I don't understand how the train and the tracks help us.

Mr. FLOOD. Well, the tracks, any tracks, anything that will carry anything through an isthmus will help you—a new road, a new railroad, anything like this. But we have——

Mr. FASCELL. You mean for carrying supplies? Is that what you are getting at?

You see, I am a little bit lost as to what the value of that train is.

Mr. FLOOD. Well, primarily, it is a defense structure, primarily, although originally it was the transport of the old miners from one side to the other, originally.

Mr. FASCELL. But it is your view that the train is still a vital link in the operation of the Canal?

Mr. FLOOD. I say this, that anything we have there existing today which will help us in transport, including the outrageous sums we pay to the aristos who own the cement companies for the lousy cement they give us to build those roads, and put the money in Swiss banks, which they did with

the $36,300,000 we gave them—I bet you the best drink in town that three-fourths of that is in a Swiss bank now. That has been going on for 40 years.

I don't think—you can't change these people by just making a treaty. You can't change this, these 16 families. But that is not—that is the Panamanians.

Mr. FASCELL. That is not the issue. I am just trying to find out what is the use of the railroad.

Mr. FLOOD. Any railroad is important for transport of anything, whether it is the narrowest gage or a double track. That is important but its greatest value is its ready availability in event of interruption of transit that may be caused by slides when it would become a major transcontinental railroad overnight.

Mr. FASCELL. I think I would go along, generally, with that. But, as I remember this railroad, all it has are a few passenger cars.

Mr. FLOOD. This isn't for the transportation of passengers. This was an adjunct of the canal. Any railroad—for instance——

Mr. FASCELL. You mean it has freight cars?

Mr. FLOOD. Yes, indeed. In the town that I come from, I have more railroads going into my city of Wilkes-Barre than any place in the United States, to haul coal. But you couldn't go a hundred miles, because there were no passenger trains. They came in there, these great railroads, to haul coal.

Now, the fact that you put a few passenger cars on the Lehigh Valley or the Pennsylvania, a few passenger trains between New York and Buffalo, that was just to satisfy the peasants. These seats that you and I are on are certainly not the purpose of a railroad at the Panama Canal across the Isthmus. That is just a convenience. It helps the tourist from the Gray Line go from one place to another. That is about all that does.

PROTECTION AND DEFENSE OF PANAMA CANAL

Mr. FASCELL. If the Panama Canal can be adequately protected from other U.S. bases in the Caribbean, that would be an operational decision which would be satisfactory, don't you think?

Mr. FLOOD. Well, of course, that is true of any canal.

Mr. FASCELL. I am thinking particularly about the issue of the U.S. Southern Command.

Mr. FLOOD. Yes, I was thinking of that, too. But here is some language that I would want you to read. You can't read my handwriting, because even I have a time.

"Moreover, the defense of the canal"—and we are talking about mere defense, the defense of the canal—"like that of major ports, major rail systems, of the United States, depends not upon passive features of design, but the combined forces of the entire Armed Forces of the United States."

That is true. Of course, that is true. Anybody that blinks at the canal, from the East or West, ignites the defense of the Western Hemisphere. And that means the Armed Forces of the United States.

The same thing would be true of the Port of New York or of San Francisco. It wouldn't be one command.

Mr. FASCELL. We have had testimony in this committee in closed session with respect to the security of the Gulf of Mexico and the Caribbean Sea, and the Panama Canal, and——

Mr. FLOOD. Mr. Chairman, I am on the Defense Appropriations Committee.

Mr. FASCELL. Right, and I just wanted to be clear.

In other words, you would prefer to keep the Southern Command, but——

Mr. FLOOD. Oh, yes.

Mr. FASCELL (continuing). But admit that a canal could be adequately protected from other places.

Mr. FLOOD. It could be protected. The canal could never be adequately protected unless the entire Armed Forces of the United States—that would be an act of war. This wouldn't be a guerrilla action. This wouldn't be South Vietnam. South Vietnam would be a little gas on the stomach compared to anybody touching that ditch.

SOVEREIGNTY PROVISIONS OF 1903 TREATY

Mr. FASCELL. I just want to get this in the record, Mr. Flood, so there won't be any confusion about the question of sovereignty and why the issue was raised. And I am not making a case for it or against it.

Article II of the 1903 treaty says:

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of the zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said Canal.

And then it goes on.

Mr. FLOOD. Yes.

Mr. FASCELL. That is article II basically.

Article III——

Mr. FLOOD. I know it like the Lord's Prayer.

Mr. FASCELL (reading):

The Republic of Panama grants to the United States all of the rights, power and authority within the zone mentioned and described in article II of this agreement and within the limits of all auxiliary lands and water mentioned and described in said article II, which the United States would possess—

And here is where we get into difficulty—and exercise if it were the sovereign of the territory within which said lands and waters are located—

et cetera.

Those two passages read in conjunction have given rise to a difference of opinion.

Mr. FLOOD. That is correct. This is semantics.

Mr. FASCELL. On the other hand, the treaty has been interpreted to mean a perpetual grant of the land itself; on the land, on the Panamanian side——

Mr. FLOOD. You have stated the question. It is semantics.

Mr. FASCELL. The question has been raised whether or not the words "if it were the sovereign," read in conjunction with the "grant in perpetuity" of the use, occupation, and control of the zone for a specified purpose, is in fact total sovereignty.

Mr. FLOOD. Mr. Chairman, it was raised about the very first week after the treaty was signed.

Mr. FASCELL. That is the only point I was making, that it was there for a long time.

Mr. Bingham.

Mr. BINGHAM. Thank you, Mr. Chairman, I appreciate your inviting me to participate, although I am not a member of this subcommittee.

Mr. FASCELL. You are a member of the full committee and we are delighted to have join us here.

Mr. BINGHAM. Yes, I am a member of the full committee.

I would like to ask this, Mr. Flood. And if this has been covered before, Mr. Chairman, please let me know.

RELATIONS OF OTHER LATIN AMERICAN COUNTRIES WITH PANAMA

Mr. FLOOD. Well, let me say it this way.

Of course, I do. I can't pretend Panama is some place else. I can't pretend it is not there. I can't pretend it is on the moon. Of course, it is there. It is people, and they live and breathe, just like people do in all these new developing countries, all over the world.

And there is a suffrage, as we just said a few minutes ago, in Latin America, just as we have it here in our own country. We certainly should be able to recognize it someplace else. And we do. At least most of us do.

But I see no place in this resolution on the question of sovereignty for this isthmus, the Canal Zone itself, on this broad, everpresent, yet to be solved—with the help of God—question. But that is not peculiar to this resolution or to this statement. I am speaking of two entirely different things, the sovereignty of the canal and the modernization of this canal into this system.

But these questions that go to the integrity of the Nation, these questions that go to feeling for people, these questions that go to this suffrage and nationalism, are not peculiar to Panama but to world problems—all races, colors, and peoples, creeds, and religions—and oh, yes, that is present. You can't pretend by passing this resolution that it isn't. It is.

Mr. BINGHAM. And what would you say would be the impact on our relations with the Latin American peoples generally of the adoption of this resolution?

Mr. FLOOD. I have discussed this over a period of years. And I have seen many governments change, on both the east and west coasts and central part of South America.

At the United Nations in New York, here in Washington, the South American League, it is essential and necessary that they strike a pose for their Latin brothers. But, believe me, they will not break down and cry, none of them. None of them. And I hold no brief for many of the governments to whom I have spoken in the last 25 years, believe me, about fait accompli.

Our position must be very careful, so that out of an abundance of caution, and trying to do good, we don't do bad as well. We should insist that the people must speak for themselves, the people must be free, the people must create their own governments, and so on and so on, about now. This is the subject that I would like to discuss with you, because you are for the authority, but not in this resolution. That is no cause for alarm here.

Mr. BINGHAM. But when you say that these people with whom you have spoken indicate they have to make certain noises in opposition, doesn't that suggest to you that they make those noises because the public in the Latin American countries feels very aggrieved about the continuing position of the United States in the Panama Canal Zone?

Mr. FLOOD. No, oh, no.

Mr. BINGHAM. It does to me, frankly.

Mr. FLOOD. Well, it doesn't to me, frankly.

Mr. BINGHAM. What did you mean, then, that they had to make certain noises about?

Mr. FLOOD. It means they must make certain noises because they are aware that their people are aggrieved about certain things. But in Brazil, in Argentina, in Peru, in Paraguay, the last thing in the world that they are thinking of is the Panama Canal. They couldn't care less.

Mr. BINGHAM. I am puzzled by your statement—and perhaps you went into this before—that the surrender by the United States of the Canal Zone and Canal would inevitably result in a Communist takeover of Panama, as occurred in Cuba, which would include the canal itself.

Mr. FLOOD. We developed this at some length before you were here.

Mr. BINGHAM. Well, then, I am sorry. I don't want to pursue it, if it has been covered.

Mr. FLOOD. Well, perhaps——

Mr. BINGHAM. No, I don't want to duplicate anything.

Mr. FLOOD. I understand. We can go over it.

Mr. FASCELL. We are going to have to go to the floor of the House and vote.

Are there any other questions?

If not, I want to thank you, Mr. Flood. We appreciate your coming here, making your statement, answering all of our questions, and helping this subcommittee in its study of the question of the security of the Caribbean and the Panama Canal.

Mr. FLOOD. Thank you. I am glad you permitted me or asked me to come. And I

urge that I be invited again, because, frankly, I smell something in the offing.

Mr. FASCELL. Without objection, the record of the hearings will remain open for the acceptance of additional statements from our colleagues in the House.

The subcommittee stands adjourned.

(Whereupon, at 4:15 p.m. the subcommittee adjourned, to reconvene at the call of the Chair.)

(The following statement was subsequently received:)

STATEMENT OF REPRESENTATIVE DURWARD G. HALL ON THE PANAMA CANAL

Mr. Chairman, it appears that this Nation has become "obsessed" with the idea of giving up control of the Panama Canal. It is my considered judgment that such action, if accomplished would contribute greatly toward smoothing the roadbed over which the juggernaught of international communism would travel.

We have given away the island Iwo Jima and plan same for Okinawa—our hard won and most strategic base in the Pacific.

We have given away Wheelus Air Force Base, undoubtedly its tarmac will soon become a favored resting place for aircraft bearing the hammer and sickle.

Now comes the news that the President has appointed Mr. Daniel W. Hofgren, a man whose credentials as a negotiator are at best suspect, to be a special representative of the United States for the Interoceanic Canal Negotiations, with the rank of ambassador.

Mr. Chairman, I think it is time that the Congress makes it perfectly clear that this Nation has no need for a negotiator. The Congress should make perfectly clear, once and for all: We are there, we intend to remain there, and, in the language of today, the sovereignty of and Panama Canal itself—is unnegotiable. It's time we made crystal clear that this involves U.S. territory, and hence is a constitution prerogative of the House and entire Congress.

I have joined with my colleagues from Missouri, Pennsylvania, and Ohio in introducing legislation that would arm the President with the sentiment of the House of Representatives and that of the American people in any future negotiations with the Goverment of Panama over the status of the Canal Zone.

It is essential that this be done so that a reoccurrence of the abortive proposed 1967 treaty does not come back to haunt us. As many may remember this proposed 1967 treaty contained provisions that ceded additional rights of the Canal Zone to Panama, gave Panama joint administration, increased our annual payments to Panama, raised tolls, and forced the United States to share its defense and police powers with Panama. When the text of this treaty was published there was a hue and cry throughout the United States opposing its provisions. At that time about 150 Members of Congress introduced or co-sponsored resolutions expressing the sense of the House that it was the desire of the American people that the United States maintain its sovereignty and jurisdiction over the Canal Zone. The same language exists in the resolution we are introducing today. Public indignation ran so high that the 1967 draft treaty was never sent to the other body for ratification. I ask that those hearings be made a part of this hearing record!

Mr. Chairman, it is now over two years later. Much has transpired. A military junta is now ruling Panama. A new administration has taken over the reins here in Washington. On the other hand, much has remained the same. Castro is still preaching and exporting revolution in Latin America. American property is still being ex-appropriated "south of the border." Many people both here and abroad call for the surrender of American bases and rights throughout the world. The Panamanian Government is aware of this and is now willing to make another attempt to negotiate a new treaty. They know that they have *nothing* to lose, and *everything* to gain. They no doubt feel that if they obtain concessions from us as they did in the negotiations for the 1967 treaty, they can obtain them again in any new round of negotiations.

I am also confident that the citizenry of this country know and comprehend the strategic importance of the Canal Zone. As a Member of the House Committee on Armed Services I was *particularly* concerned about the possible effect of the 1967 treaty on both the subjects of national security and hemispheric defense. The importance of the Canal Zone as a bastion on our "southern flank" cannot be overrated. Without our control of the Canal Zone the possibility of a potentially hostile regime in Panama denying access of the transferring our naval forces from ocean to ocean ever grows. The loss of this access could destroy a link in our defense chain and could produce a disaster. It is particularly inappropriate in this time of contingency expectancy around the world.

Mr. Speaker, intertwined with the aspect of *national security*, is the equally important area of *hemisphere defense*. The Canal Zone under our control and jurisdiction serves as an outpost thwarting the perverted ambitions of Castro, Moscow and Peking. Our presence serves as a constant reminder of our determination to stop subversion in Latin America. I ask, would Panamanian control of the canal serve a like purpose? I think the answer is obvious.

Besides military considerations, the *commercial* considerations must also be examined. A Communist or hostile government could completely close the canal to United States shipping. Over sixty-five percent of all United States shipping passing through the canal annually either originates or terminates in United States ports. The added shipping costs, as well as the curtailment of shipping would be astronomical in the event this facility was denied our use.

Besides paying the price for increased shipping costs, the United States taxpayer could possibly be forced to surrender his aggregate investment of over $5,000,000,000 which would constitute the biggest single "give-away" in recorded history. I cannot envision the American people wishing to write off this huge public asset, without some reasonable and tangible compensation in return. Let's at least put the question to them!

Mr. Chairman, I am happy to inform you that many Members of the House of Representatives are in total agreement with the statement I have made here today, and I remind you that no other branch of the Government has the feel or the knowledge of the electorate as does the membership of the House.

It is imperative that all who are concerned do everything in their power now, to prevent the surrender of our right to the control of the Panama Canal. We cannot sit idly by and watch the Panama Canal become another Suez.

H. RES. 593

Whereas it is the policy of the House of Representatives and the desire of the people of the United States that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; and

Whereas under the Hay-Pauncefote Treaty of 1901 between Great Britain and the United States, the United States adopted the principles of the Convention of Constantinople of 1888 as the rules for the operation, regulation, and management of said canal; and

Whereas by the terms of the Hay-Bunau-Varilla Treaty of 1903, between the Republic of Panama and the United States, under the authority of the perpetuity of use, occupation, control, construction, maintenance, operation, sanitation, and protection for said canal was granted to the United States; and

Whereas the United States has paid the Republic of Panama almost $50,000,000 in the form of a gratuity; and

Whereas the United States has made an aggregate investment in said canal in an amount of over $5,000,000,000; and

Whereas said investment or any part thereof could never be recovered in the event of Panamanian seizure or United States abandonment; and

Whereas under article IV, section 3, clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress; and

Whereas 70 per centum of the Canal Zone traffic either originates or terminates in United States ports; and

Whereas said canal is of vital strategic importance and imperative to the hemispheric defense and to the security of the United States; and

Whereas, during the preceding administration, the United States conducted negotiations with the Republic of Panama which resulted in a proposed treaty under the terms of which the United States would shortly relinquish its control over the Canal; and

Whereas there is reason to believe that the present dictatorship in control of the Government of Panama seeks to renew negotiations with the United States looking toward a similar treaty; and

Whereas the present study being conducted by the Atlantic-Pacific Interoceanic Canal Study Commission may result in a decision to utilize the present canal as a part of a new sea level canal; and

Whereas any action looking toward an agreement with the Government of Panama which would affect the interest of the United States in the Canal would be premature prior to the submission of the report of the Commission in any event: Now, therefore, be it

Resolved by the House of Representatives, That it is the sense of the House of Representatives that the Government of the United States maintain and protect its sovereign rights and jurisdiction over said canal and that the United States Government in no way forfeit, cede, negotiate, or transfer any of these sovereign rights or jurisdiction to any other sovereign nation or to any international organization.

H.R. 3792

A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Panama Canal Modernization Act".

SEC. 2. (a) The Governor of the Canal Zone, under the supervision of the Secretary of the Army, is authorized and directed to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project set forth in the report of the Governor of the Panama Canal, dated February 24, 1939 (House Document Numbered 210, Seventy-sixth Congress), and authorized to be undertaken by the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), with usable lock dimensions of not less than one hundred and forty feet by not less than one thousand two hundred feet by not less than forty-five feet, and including the following: elimination of the Pedro Miguel Locks, and consolidation of all Pacific locks near Miraflores in new lock structures to correspond with the locks capacity at Gatun, raise the summit water level to its optimum height of approximately ninety-two feet, and provide a summit-level

lake anchorage at the Pacific end of the canal, together with such appurtenant structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, as may be deemed necessary, at an estimated total cost not to exceed $850,000,000, which is hereby authoriezd to be appropriatd for this purpose.

(b) The provisions of the second sentence and the second paragraph of the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), shall apply with respect to the work authorized by subsection (a) of this section. As used in such Act, the terms "Governor of the Panama Canal", "Secretary of War", and "Panama Railroad Company" shall be held and considered to refer to the "Governor of the Canal Zone", "Secretary of the Army", and "Panama Canal Company", respectively, for the purposes of this Act.

(c) In carrying out the purposes of this Act, the Governor of the Canal Zone may act and exercise his authority as President of the Panama Canal Company and may utilize the services and facilities of that company.

SEC. 3. (a) There is hereby established a board, to be known as the "Panama Canal Advisory and Inspection Board" (hereinafter referred to as the "Board").

(b) The Board shall be composed of five members who are citizens of the United States of America. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, as follows:

(1) one member from private life, experienced and skilled in private business (including engineering);

(2) two members from private life, experienced and skilled in the science of engineering;

(3) one member who is a commissioned officer of the Corps of Engineers, United States Army (retired); and

(4) one member who is a commissioned officer of the line, United States Navy (retired).

(c) The President shall designate as Chairman of the Board one of the members experienced and skilled in the science of engineering.

(d) The President shall fill each vacancy on the Board in the same manner as the original appointment.

(e) The Board shall cease to exist on that date designated by the President as the date on which its work under this Act is completed.

(f) The Chairman of the Board shall be paid basic pay at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The other members of the Board appointed from private life shall be paid basic pay at a per annum rate which is $500 less than the rate of basic pay of the Chairman. The members of the Board who are retired officers of the United States Army and the United States Navy each shall be paid at a rate of basic pay which, when added to his pay as a retired officer, will establish his total rate of pay from the United States at a per annum rate which is $500 less than the rate of basic pay of the Chairman.

(g) The Board shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Secretary and such other personnel as may be necessary to carry out its functions and activities and shall fix their rates of basic pay in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The Secretary and other personnel of the Board shall serve at the pleasure of the Board.

SEC. 4. (a) The Board is authorized and directed to study and review all plans and designs for the Third Locks project referred to in section 2(a) of this Act, to make on-the-site studies and inspections of the Third Locks project, and to obtain current information on all phases of planning and construction with respect to such project. The Governor of the Canal Zone shall furnish and make available to the Board at all times current information with respect to such plans, designs, and construction. No construction work shall be commenced at any stage of the Third Locks project unless the plans and designs for such work, and all changes and modifications of such plans and designs, have been submitted by the Governor of the Canal Zone to, and have had the prior approval of, the Board. The Board shall report promptly to the Governor of the Canal Zone the results of its studies and reviews of all plans and designs, including changes and modifications thereof, which have been submitted to the Board by the Governor of the Canal Zone, together with its approval or disapproval thereof, or its recommendations for changes or modifications thereof, and its reasons therefor.

(b) The Board shall submit to the President and to the Congress an annual report covering its activities and functions under this Act and the progress of the work on the Third Locks project and may submit, in its discretion, interim reports to the President and to the Congress with respect to these matters.

SEC. 5. For the purpose of conducting all studies, reviews, inquiries, and investigations deemed necessary by the Board in carrying out its functions and activities under this Act, the Board is authorized to utilize any official reports, documents, data, and papers in the possession of the United States Government and its officials; and the Board is given power to designate and authorize any member, or other personnel, of the Board, to administer oaths and affirmations, subpena witnesses, take evidence, procure information and data, and require the production of any books, papers, or other documents and records which the Board may deem relevant or material to the performance of the functions and activities of the Board. Such attendance of witnesses, and the production of documentary evidence, may be required from any place in the United States, or any territory, or any other area under the control or jurisdiction of the United States, including the Canal Zone.

SEC. 6. In carrying out its functions and activities under this Act, the Board is authorized to obtain the services of experts and consultants or organizations there in accordance with section 3109 of title 5, United States Code, at rates not in excess of $200 per diem.

SEC. 7. Upon request of the Board, the head of any department, agency, or establishment in the executive branch of the Federal Government is authorized to detail, on a reimbursable or nonreimbursable basis, for such period or periods as may be agreed upon by the Board and the head of the department, agency, or establishment concerned, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions and activities under this Act.

SEC. 8. The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 9. The Administrator of General Services or the President of the Panama Canal Company, or both, shall provide, on a reimbursable basis, such administrative support services for the Board as the Board may request.

SEC. 10. The Board may make expenditures for travel and subsistence expenses of members and personnel of the Board in accordance with chapter 57 of title 5, United States Code, for rent of quarters at the seat of government and in the Canal Zone, and for such printing and binding as the Board deems necessary to carry out effectively its functions and activities under this Act.

SEC. 11. All expenses of the Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the Chairman of the Board or by such other member or employee of the Board as the Chairman may designate.

SEC. 12. There are hereby authorized to be appropriated to the Board each fiscal year such sums as may be necessary to carry out its functions and activities under this Act.

SEC. 13. Any provision of the Act of August 11, 1939 (54 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), or of any other statute, inconsistent with any provision of this Act is superseded, for the purposes of this Act, to the extent of such inconsistency.

NUTRITION PROGRAM FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I am introducing legislation today which would provide a nationwide nutrition program for the elderly to be established through Federal grants matched by State and local funding, with utilization of the surplus commodity programs.

The bill, if enacted, would mean that persons 65 years or older could be provided with at least one hot meal per day at a reasonable low-cost to them. The meals would be available at strategically located centers such as community centers, senior citizen centers, schools, and other public or private nonprofit institutions. The senior citizen would, thus, not only be provided with a decent meal but also a chance to be in the companionship of others, thereby, encouraging social contact.

Extensive hearings held by the Select Committee on Nutrition and Human Needs last fall resulted in a strong recommendation of this legislation. The chairman of the committee, the Honorable CLAUDE PEPPER, reported that:

> Among the programs discussed in the hearings were the demonstration projects conducted by the Administration on Aging under title IV—research and development grants, which evidenced not only their desirability, but their feasibility.

Twenty-seven projects established over 17 States in a 3-year period proved to be very successful.

The hearings again pointed to the fact that the elderly person must rely on a fixed-income that continues to shrivel up as the cost-of-living increases. Strict budgets must be followed and for some, food always seems to be the last priority, since the rent, utilities, taxes, and medicines must be paid.

In testimony before the hearings, Mrs. Sandra Howell, project director for the Gerontological Society, described the results of inadequate diet as follows:

> When poor nutrition exists and persists in the older adults, it serves to intensify the severity of other conditions which accompany the processes of aging. By not specifically dealing with the problems of adequate diet in the elderly (we encourage) the spiral of chronic disease, physical and psychic disability, and ultimate institutionalization.

I cannot agree with Mrs. Howell's observation more. It is my hope that full consideration be given this legislation in the light of the need and also of its feasibility as demonstrated by the projects of the Administration on Aging. I am glad to note that there are already more than 55 Congressmen that have joined this bipartisan effort and I trust that we can pool our efforts together for enactment of this bill as soon as possible.

AD HOC CONGRESSIONAL HEARINGS ON DISCRIMINATION IN FEDERAL EMPLOYMENT AND FEDERAL CONTRACTOR EMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RYAN) is recognized for 15 minutes.

Mr. RYAN. Mr. Speaker, in December 1968 seven Members of Congress sponsored ad hoc hearings on discrimination in the Federal civil service and by Federal contractors. These ad hoc hearings were convened after the appropriate congressional committees refused to agree to hold hearings on this issue. The seven who sponsored the resulting ad hoc hearings were Mr. CONYERS, Mr. DIGGS, Mr. DOW, Mr. HAWKINS, Mr. HELSTOSKI, Mr. NIX, and myself.

We had hoped that the very fact of holding these hearings would bring sufficient focus to the problem of employment discrimination so that meaningful positive change would result. In part, we were successful. The hearings did bring to bear the scrutiny of an organized group of Congressmen, and they thereby did encourage response.

However, this response in no way sufficiently met the necessities. As the hearings on ad hoc congressional committee established, the equal employment opportunity program within the Federal civil service is very deficient. Its promises have far outstripped its actual results. Similarly, the contract compliance program—the Federal Government's ostensible means to assure equal employment opportunity among the concerns with which it contracts—is very much unsatisfactory.

This persisting lack of an effective equal employment opportunity program within the Federal employment establishment has convinced us that the published report of our hearings will further expose these deficiencies.

Other events, as well, justify publication of these hearings now. Not only do the deficiencies noted then still remain. Opportunity for corrective legislative action will soon be at hand, and hopefully the publication of these hearings will help engender further support for this action, as embodied in H.R. 17555. This bill, which has been reported out of the House Committee on Education and Labor, transfers to the Equal Employment Opportunity Commission authority for the equal employment opportunity program within the Federal civil service. One of the major recommendations of our committee is, in fact, that the Civil Service Commission's supervisory authority over the equal employment opportunity program in the civil service be transferred to another agency.

Moreover, while figures alone cannot give the whole story, they do lead to the compelling conclusion—as does our report—that the transfer which H.R. 17555 proposes of the supervisory authority for the equal employment opportunity program out of the Civil Service Commission is essential. And the just-released Preliminary Report of Minority Group Employment in the Federal Government, 1969, issued by the Civil Service Commission, shows how little real progress has been made. This report presents statistics as of November, 1969; its predecessor report, entitled "Study of Minority Group Employment in the Federal Government, 1967," presented data as of November 1967.

A comparison of the two reports shows the minimal progress made over the 2-year period. Over all, there has been a 20,000-man decline in Federal employment from November 30, 1967, to November 30, 1969—from 2,621,939 down to 2,601,639.

The number of black employees in the general schedule civil service has declined from 390,842 down to 389,251. In terms of percentages, there has been a virtually negligible increase—from 14.9 percent in 1967 up to 15 percent in 1969.

The number of Spanish-surnamed employees has shown somewhat of an increase, from 68,945 in 1967 up to 73,619 in 1969. But this only represents a bare percentage increase, as based on total Federal employment, of just 0.2 percent: Spanish surnamed employees constituted 2.6 percent of the Federal work force in 1967, and they constituted 2.8 percent in 1969.

American Indians and Orientals have experienced no percentage increase, and only negligible increases in absolute numbers. American Indian Federal employees totaled 16,469 in 1967, which equaled 0.6 percent; they totaled 16,478—an increase of 9—in 1969, this equaling the same percentage of 0.6 percent. Oriental Federal employees totaled 20,416 in 1967—0.8 percent. They totaled 21,188 in 1969—again, 0.8 percent.

So, in terms of absolute numbers, the passage of 2 years' time has meant little of benefit to minority group members, so far as employment by the Federal Government is concerned. In terms of percentage distributions, the same conclusion is apparent.

Another aspect of employment in the Federal Government is grade-level distributions. Our report shows very clearly, as do other documents, that minority group members are overwhelmingly represented in the low grades—which means low wages and little or no authority—and overwhelmingly underrepresented in the high grades—which correlate with higher pay and more authority.

And, a comparison of the 1967 and 1969 figures prepared by the Civil Service Commission confirms the continuation of this pattern.

In 1967, 11.6 percent of black Federal employees held GS–5 through 8 positions. In 1969, this percentage figure had only risen to 13 percent. In 1967, 4.3 percent of black Federal employees were employed in GS–9 through 11 jobs; in 1969, the percentage was 5.1. In 1967, only 1.8 of the Federal employees in grade levels 12 through 18 were black; in 1969, the percentage was just 2.25 percent.

The figures for Spanish-surnamed Americans are similar. For GS–5 through 8, the percentages are: 1967—1.9 percent, 1969—2.1 percent. For GS–9 through 11, they are: 1967—1.2 percent, 1969—1.4 percent. And in the grade levels 12 through 18, Spanish-surnamed employees constituted 0.6 percent of the Federal work force in 1967. In 1969, they constituted 0.7 percent.

American Indians show a decline in every grade category. For category GS–1 through 4, down from 1.8 percent to 1.6 percent. For GS–5 through 8, down from 1 percent to 0.7 percent. For GS–9 through 11, down from 0.7 percent to 0.5 percent. And for GS–12 through 18, down from 0.3 percent to 0.2 percent.

The statistics regarding Oriental Americans within the Federal civil service reflect the same distressing picture. In the GS–5 through 8 grouping, there was no percentage change. In the GS–9 through 11 group, the figure rose from 0.9 percent in 1967 to 1 percent in 1969. In the GS–12 through 18 group, the figure rose from 0.7 percent in 1967 to 0.8 percent on 1969.

Thus, in terms of occupying high level positions, the passage of 2 years' time again shows a depressing result.

There are more than 30 million Americans who constitute members of minority groups—Negroes, Spanish-surnamed Americans, American Indians, and Oriental Americans. Yet, in the entire Federal general schedule civil service, as of November 1969, there were, in the three highest grade levels—GS–16 through 18—exactly 97 such Americans. In the highest grade—GS–18—there were seven blacks, two Spanish-surnamed Americans, no American Indians, and two Oriental Americans—a total of 11.

The first part of the report of the Ad Hoc Congressional Hearings on Discrimination in Federal Employment and Federal Contractor Employment concerns the equal employment opportunity program within the Federal Civil Service. I am today including the first part of the report in the CONGRESSIONAL RECORD, on behalf of the Ad Hoc Congressional Committee, composed of Mr. CONYERS, Mr. DIGGS, Mr. DOW, Mr. HAWKINS, Mr. HELSTOSKI, Mr. NIX, and myself. As we stated in the foreword to the report:

We believe this report of the Ad Hoc Congressional Hearings on Discrimination in Federal Employment and Federal Contractor Employment is compelling rebuttal to the rhetoric of action which is, in fact, disguise for inaction. We believe this report starkly presents the failure of the equal employment opportunity program, both within the Federal Civil Service, and as to Federal contractors. We intend this report to penetrate the rhetoric, and to stand as a demand for immediate, effective, meaningful action.

The first part of the report follows:

AD HOC CONGRESSIONAL HEARINGS ON DISCRIMINATION IN FEDERAL EMPLOYMENT AND FEDERAL CONTRACTOR EMPLOYMENT

FOREWORD

Because of the crucial importance of the issue of employment to millions of Americans who have been, and are being, prevented from raising their economic status

and using their talents, we, in 1968, asked a number of Congressional committees to convene formal hearings to study this problem. None—and these included both House and Senate committees—agreed to do so. Consequently, we convened these Ad Hoc Hearings, which were held December 3–5, 1968.

This Report is the result. It presents the testimony of witnesses who have both seen and experienced the discrimination which, tragically, pervades the federal employment establishment—both in the civil service and as to federal contractors.

We would like to thank these witnesses for taking the time to appear in Washington. Some of them incurred serious financial hardship in making the trip, and this is further testimony to their sincerity.

Some testimony has been omitted, some words have been changed to achieve continuity. In no case, however, has the substantive meaning of any witness' presentation been altered. Our recommendations will follow the presentation of testimony.

We believe this Report of the Ad Hoc Congressional Hearings on Discrimination in Federal Employment and Federal Contractor Employment is compelling rebuttal to the rhetoric of action which is, in fact, disguise for inaction. We believe this Report starkly presents the failure of the equal employment opportunity program, both within the federal civil service, and as to federal contractors. We intend this Report to penetrate the rhetoric, and to stand as a demand for immediate, effective, meaningful action.

Ad Hoc Congressional Committee on Discrimination in Federal Employment and Federal Contractor Employment—John Conyers, Jr., Member of Congress, Charles C. Diggs, Jr., Member of Congress, John Dow, former Member of Congress, Augustus Hawkins, Member of Congress, Henry Helstoski, Member of Congress, Robert Nix, Member of Congress, William F. Ryan, Member of Congress.

EQUAL EMPLOYMENT OPPORTUNITY IN THE GOVERNMENT

I. Introduction

Supervision of the equal employment opportunity program within the federal government resides in the Civil Service Commission, whose role is now established by Executive Order 11478, issued by President Nixon on August 8, 1969, and superseding Part I of Executive Order 11246, issued by President Johnson on September 24, 1965.

The most recent complete data on minority group employment in the federal government is that provided in the 1967 report of the Civil Service Commission, entitled "Study of Minority Group Employment in the Federal Government." On September 10, 1970, the Commission issued its "Preliminary Report of Minority Group Employment in Federal Government, 1969." The final report is expected to be published in November, 1970.

An analysis of the 1967 report, which presents data compiled as of November 30, 1967, and the Preliminary Report, which presents data compiled as of November 30, 1969, shows the following comparisons:

(a) There was a total of 2,621,939 full-time federal employees as of November, 1967, and a total of 2,601,639 as of November 30, 1969.

(b) Black employees totaled 390,842 in 1967—14.9%. Black employees totaled 389,251 in 1969—15.0%. In brief, there was virtually no change in terms of percentages, and there was an actual decline in terms of numbers.

(c) Spanish surnamed federal employees totaled 68,945 in 1967—2.6%. They totaled 73,619 in 1969—2.8%. In this instance, there was both a minor percentage increase, and a minor increase in absolute numbers.

(d) American Indian employees totaled 16,469 in 1967—0.6%. They totaled 16,478 in 1969—0.6%. In this instance, there was no percentage change, and only a negligible increase in absolute numbers.

(e) Oriental federal employees totaled 20,416 in 1967—0.8%. They totaled 21,188 in 1966—0.8%. In this instance, there was again a negligible increase in absolute numbers, and no change in terms of percentage.

II. SUMMARY OF TESTIMONY ON MINORITY GROUP EMPLOYMENT IN THE FEDERAL GOVERNMENT

The testimony before the Ad Hoc Congressional Committee concerning minority group employment within the federal government breaks down into essentially four chief areas:

(1) the existence of discrimination, experienced both in terms of individual victization and in terms of patterns of deprivation of opportunity;

(2) the inadequacy and inability of the Civil Service Commission, charged with the responsibility for the rights of federal employees, to conduct and control the equal employment opportunity program;

(3) the bankruptcy, and even negative influence, of the employee grievance procedure in dealing with and rectifying discrimination in hiring, in employment, and in promotion; and

(4) the failure of so-called "affirmative action" to remedy past and present wrongs.

1. The statistics of discrimination

The statistics presented by the witnesses who appeared before the Ad Hoc Congressional Committee make eminently clear that minority group members are under-represented in policy-making positions within the federal establishment, and over-represented in the lower grade levels. Thus, both in terms of authority and salary, minority group members remain second class citizens.

2. The Civil Service Commission

The Civil Service Commission is committed to a merit promotion system, which is ostensibly premised on objectivity and neutrality. For example, the merit promotion system keys advancement to achievement and years of service, pursuant to its aim of precluding promotion on the basis of personal favoritism. Federal law precludes more than one-grade promotions—that is, promotion from a GS–11 to a GS–13, skipping the GS–12 level—and requires certain minimal time within a grade before the employee is eligible for promotion.

While this system has the laudable aim of preventing personal favoritism from outweighing merit, in practice the desired objectivity and neutrality which the civil service system aims at operates against the interests of minority group members.

Since most minority group members are hired in low grade level positions, the likelihood of reaching a high grade and a position of authority is slim. In adidtion, the testing which seeks to select employees without regard to the personal favoritism of their superiors often is marked by a cultural bias inimical to the success of minority group members. Moreover, the very neutrality which aims at protecting employees makes the system unable to adequately cope with, and rectify, the past discrimination which has kept the low grade, but capable, employee in a position incommensurate with his potential. And finally, the qualification standards set for jobs often preclude advancement, yet themselves are misplaced and not keyed to the actual talents and abilities needed for the job.

More important in terms of the government's purported goal of equal employment opportunity is that the Civil Service Commission is, in large part, uncommitted to this goal. While this does not mean that Civil Service Commission employees are men of ill will or are bigots, it does mean that they have no special passion or sensitivity for the problems of minority group members or for the patterns of discrimination which the statistics all too clearly establish.

In part this lack of commitment stems not only from disinterest, but also from the essential ethic of the Commission, which is neutrality. Neutrality is a viable operative concept when its subjects are all alike. But it breaks down in the face of varying educational backgrounds, disparate cultures, and the actual fact of institutionalized discrimination which, while seldom the product of identifiable individuals, is all too often the unarticulated tradition of the system.

Finally, the Commission simply is inadequately staffed to properly implement, conduct, supervise, and review a nation-wide equal employment opportunity program.

The conduct of the program by the Civil Service Commission is, not surprisingly, ineffective at best. At worst, it is harmful. The Commission, even in those completed cases it does review, has hardly ever found discrimination—the statistic quoted by Mr. Michael Ambrose, one of the witnesses and a former Commission employee, is 2 per cent. Further, the Commission has ignored what would appear to be reasonable management techniques by failing to set any goals, or standards, by which agencies can gauge their success or failure. Nor is there any system to reward effective agency programs, or equal opportunity employment officers, who actually are often intimidated—at least implicitly—by the displeasure which their superiors would express were their agencies to be found to be discriminatory.

3. The grievance procedure

The grievance procedure came in for the severest of criticism by the witnesses. In part, its failings follow from the failings of the Civil Service Commission, which, by its quiescence and disinterest, has failed to effectively examine agency actions. But, more basically, the failings of the grievance procedure derive from its conceptual problems and from its implementation within the agencies.

Conceptually, the grievance procedure is misplaced because it is unable to grapple with the pervasive, non-specific discrimination endemic throughout the government. The procedure is premised on an adversarial confrontation between the individual complainant and an agency employee whom he accuses of having discriminated against him.

This framework requires identification of an individual discriminating person, and identification of acts of discrimination. Yet the first requirement ignores the patterns of discrimination—through slow promotion, misdirected testing, restrictive hiring—which perhaps can be blamed on no one person or group of persons. And the latter—identification of acts of discrimination—similarly calls upon a showing of overt acts or events, whereas the discrimination may be far more clearly apprehendable in its consequences—again, the pattern of discrimination shown by the statistics—than in its victimization of any one individual.

Another aspect of this adversarial structure is the fact that the accused agency is the investigating party. Only it can commandeer the personnel statistics over the past years and the other information which may be relevant, beyond the basic alleged acts which the specific complainant points to. Yet, because the agency is in effect being put on trial, it is not working with the complainant to rectify a clearly articulated wrong—discrimination in employment—but against him.

The witnesses recorded other vices in the present procedure, as well. Long delay is typical, for one thing. In addition, the agencies are not really interested in overcoming discrimination. The complainant must pro-

vide his own counsel and the complainant must take the initiative. Particularly in the case of Spanish-speaking employees, this is a significant hurdle because, apart from the psychological disposition to fight which any complainant must possess, the Spanish speaking complainant must overcome the difficulties of language as well. Furthermore, a complainant is labeled as a troublemaker—he may win in the proceeding, but the likelihood of future promotion is minimal.

Finally, the results of these proceedings rarely are in favor of the complainant. While not all employees may have valid complaints, the few findings of discrimination surely cannot be made to jibe with the statistics showing the concentration of minority group members in low level jobs where they earn little money and possess little authority.

On the other side of the coin, several witnesses reported that employees accused of discrimination have been promoted during the pendency of complaints. In brief, there is no system to punish those who have discriminated.

4. Affirmative action

Given the fact that the statistics show a pervasive pattern of discrimination, whereby minority group members are excluded—whether by design or institutionalized tradition—from high grade positions of authority, an affirmative action program should, ideally, seek to reverse and compensate for such pattern, as well as, through the individualized means of grievance procedures, rectify the wrongs done to specific individuals by their employers.

The affirmative action program within the federal employment establishment in no way even brings within sight the ideal. Again, this is in part due to the basic disposition of the Civil Service Commission, to which preferential treatment largely means setting quotas—which are anathema to the Commission—to achieve reverse discrimination.

Again, also, the lack of particular interest by the Commission, and the displeasure which the effective equal employment opportunity officer in a given agency may well incur from his superior, dissuade aggressive action.

Further, the stressing of tests which erect needless and improper obstacles to advancement, and the setting of qualification standards which are not really relevant to the job, yet which bar potential applicants, serve to inhibit affirmative action, rather than abet it.

Finally, there is no means to compensate victims of discrimination—no means to effect retroactive promotions, or to make up for the lost pay a better job would have provided or to recompense for past anguish and frustration.

III. RECOMMENDATIONS OF THE AD HOC CONGRESSIONAL COMMITTEE CONCERNING DISCRIMINATION IN FEDERAL EMPLOYMENT

Given the continuing existence of discrimination in federal employment, and the failure of the present system to rectify this discrimination and to redress the grievances of its victims, it is clear that changes must be instituted—very significant changes which must enable and force effective, meaningful action immediately.

Our recommendations, which largely coincide with those of the witnesses who testified on minority group employment in the federal civil service, follow.

1. Responsibility for the equal employment opportunity program should be lodged in a separate, independent agency, rather than the Civil Service Commission

The Civil Service Commission has failed to even adequately, let alone aggressively, conduct the equal employment opportunity program. Its institutional orientation towards neutrality, its institutional disinterest in combating discrimination, its inadequate staffing, and its numerous other program missions, all militate against its being the suitable body within the federal government to conduct a nationwide, intensive program of this nature.

A separate agency, committed to eradicating patterns of discrimination and to aggressively responding to, and reviewing, individual cases of victimization, is therefore essential. Moreover, the very act of removing the equal employment opportunity program overseer role from the Civil Service Commission will punctuate a commitment on the part of the Federal government to aggressively and forcefully implement Executive Order 11478.

Three potential sites for this program appear feasible. The U.S. Commission on Civil Rights, which is at present an information collecting and investigatory agency without program responsibility for implementing the Executive Order, has demonstrated commendable diligence and competence. Given implementation responsibility, it would be a suitable agency to combat discrimination with in the federal employment establishment.

Similarly, the Equal Employment Opportunity Commission could serve as such an agency. At present, it has no enforcement authority. But, restructured, it too could effectively conduct and supervise the equal employment opportunity program throughout the government.

Finally, a completely new agency could be established. This approach would have the advantage of clearly stating, by the agency's very creation, the federal government's commitment to equal employment opportunity. On the other hand, a new agency would not possess the expertise which the other two agencies have developed. Moreover, pragmatics would seem to indicate that creation of a new agency would be less feasible than modification of the Civil Rights Commission or the Equal Employment Opportunity Commission.

In sum, we recommend that the equal employment opportunity supervisory mission be removed from the jurisdiction of the Civil Service Commission, and lodged in either a modified civil Rights Commission or Equal Employment Opportunity Commission, or a totally new agency.

2. The agency designated to supervise the equal employment opportunity program must be given cease and desist authority

At present, the Equal Employment Opportunity Commission is only authorized under Title VII of the Civil Rights Act of 1964 to use "informal method" to resolve job discrimination complaints falling within its jurisdiction. The Civil Rights Commission has no enforcement authority.

As the Nathan Report, entitled "Jobs and Civil Rights," and published in April, 1969 by the U.S. Commission on Civil Rights, states:

"Cease and desist authority for the EEOC is essential no matter what else is done. The point is not so much that cease and desist authority would be widely used, as that its availability would make it easier to secure compliance and cooperation in every phase of EEOC operations. (pages 66–67).

Proposals have been made repeatedly in Congress to authorize such authority for the EEOC. These include H.R. 6228 and H.R. 17555, both introduced in the 91st Congress. H.R. 17555 has been reported out of the House Committee on Education and Labor, and hopefully will be passed this session.

Strangely, but perhaps not surprisingly, this Administration's appointee to the chairmanship of the EEOC has changed his position from terming cease and desist authority "absolutely essential" during his confirmation testimony after he was appointed in April of 1969, to supporting the Administration EEOC legislation, which does not give the EEOC authority to issue such orders.

Cease and desist authority is essential, whether the federal equal employment opportunity program is lodged in the Civil Rights Commission, the EEOC, or a totally new agency.

3. Whatever agency is to implement the equal employment opportunity program, it must have broad investigatory powers which are regularly and stringently exercised

At present, review of agency practices is largely a post facto exercise by the Civil Service Commission. Moreover, this exercise must usually be initiated by an aggrieved employee's making an appeal to the Commission from an adverse grievance complaint finding. The Commission, or whatever agency replaces it in the equal employment opportunity program supervisory role, should, of its own initiative, undertake periodic, random investigations of federal agencies. In simple terms—a little fear will keep an agency on its toes, so to speak.

4. Goals must be set for desired minority group employment

At present, there is no effective manner for an agency to ascertain how well it is doing in hiring and promoting minority group members. It has no numbers against which to measure its performance. Some rationale—albeit minor—for the agencies' failings thus far lies in the lack of direction which they have received from the Civil Service Commission.

The Civil Service Commission can certainly set goals—ranges of minority group employment for each type of job and each grade level—much as the Office of Federal Contract Compliance of the Department of Labor has done in its Philadelphia Plan, which sets ranges of employment goals for different types of construction jobs in federally financed or assisted construction projects.

5. Special recruitment of minority group members should be undertaken

While some steps have been made in the direction of recruiting minority group members, added emphasis should be placed on recruiting blacks, Mexican-Americans, Puerto Ricans, Indians, Orientals, and women, who, while numerically in the majority in terms of total population, are very much underrepresented both in terms of salary levels and grade levels within the federal government.

6. Special measures should be undertaken in areas populated by Spanish-speaking Americans to utilize Spanish as a second language

Particularly as brought out by one of the witnesses, Mr. Domingo Nick Reyas, the language barrier is a severe impediment to the hiring and advancement of Spanish-speaking Americans and to their utilization of the grievance procedure. Meaningful action must be taken to utilize Spanish, to administer tests in Spanish, and to translate instructions into Spanish.

Moreover, not only will Spanish-speaking employees within the civil service be aided by such action. The federal government, by hiring more Spanish-speaking employees, supervisors, and other officials, will be better able to serve and communicate with those citizens and non-citizens who speak only Spanish.

7. The grievance procedure must be overhauled

The present grievance procedure is a sham. It is almost completely worthless. The procedure process takes far too long, the adversarial nature of the proceeding mistakenly pits the complainant against the very agency which controls his access to essential infor-

mation, and the review process is obviously unsatisfactory.

One of the major functions to be served by lodging authority for supervision of the equal employment opportunity program in another agency other than the Civil Service Commission must be to provide the complainant with an ally equal in institutionalized strength to the agency which he is challenging. Another major function must be to expedite grievance proceedings by establishing meaningful time requirements for action, and by enforcing them.

What we now have, in effect, is a system of a right without a remedy. The lack of the latter makes the former meaningless.

8. Whenever a minority group member is not hired or promoted, an explanation in writing must be made to the superior in charge

Again, a knowledge of someone watching over an employee's shoulder will help to deter discriminatory acts.

9. Those who are found guity of discrimination should be penalized

Testimony revealed that employees charged with discriminatory practices have been promoted during the pendency of complaints filed regarding them. Whether those who have been found to have actually discriminated have been subsequently promoted is unclear.

The employee who, through his discriminatory acts, has deprived another employee of a hiring or promotion opportunity, must be punished. Obviously, firing is the severest penalty, but it should not be foreclosed as one alternative. At the least, an unfavorable notation should be appended to the employee's personnel record, and this should be considered in his own possibilities for promotion, or hiring by another agency. Perhaps the most utilizable penalty would be ineligibility for promotion for a fixed number of years—3 or 4 or 5.

Of course, the same protections afforded the person complaining of having been discriminated against should be afforded the person found guilty of having discriminated. He must have an effective, fair opportunity to dispute the charge and to challenge the finding. Moreover, penalties regarding promotions and hiring should be assessed against those making proven frivolous complaints in an effort to harm or defame another person.

10. Rewards should be set for agency employees who do implement the equal employment opportunity program diligently

At present, the equal employment opportunity officer who performs well receives no reward for doing so. Nor does the supervisory employee who operates a division free from discriminatory practices. Thus, they have little incentive to encourage good performance. In fact, quite the contrary. They run the risk of incurring the displeasure of their superiors if the agency is labeled, by the successful complaints of its employees, as discriminatory. Merit awards should be established to take proper note of diligent, affiirmative action.

11. Retroactive promotions should be extended to those who have been held back because they were victimizezd by discrimiation

The problem of retroactive promotions is one of the most difficult which the Ad Hoc Committee faced. Theoretically, every minority group member would be eligible for such promotion, since the statistics show patterns of discrimination which have affected every such person. To limit retroactive promotions to just those persons who can win their case in a grievance proceeding is to ignore these patterns.

On the other hand, to suddenly promote hundreds of thousands of employees would be to ump them over the heads of hundreds of thousands of other diligent, deserving white employees.

At the least, retroactive promotion should be extended to the successful grievance proceeding complainant. While promotion may not be feasible en masse for all minority group employees, immediate increases in salary should be made as monetary compensation for the past discrimination these employees have suffered.

12. Affirmative steps should be taken to assure extensive minority group employment in expanding fields

Two witnesses noted the failure to hire minority group members in the computer field—an expanding area offering good opportunity for advancement. Added effort should be undertaken to recruit minority group members for such fields.

Under the present circumstances, those have suffered from discrimination by being hired, and retained, in low level jobs, have little opportunity for advancement in large, old-line agencies having few high positions and many potential personnel to fill them. It is essential that, in addition to other measures, immediate steps be taken to assure that minority group members are not excluded from new agencies, new programs, and new fields of endeavor.

13. Testing and qualification standards must be modified

While some progress has been made in adjusting testing and qualifications to the needs of the job, much has yet to be done. Clearly, competence in grammar is desirable, in the abstract, but it may not be needed—it may even be a detriment—for the GS–11 employee in the training and technical assistance division of the Office of Economic Opportunity, whose job is to assist local community action groups in the ghetto. Moreover, failure to pass a test may well be an irrelevant index of a person's ability to handle a job, especially when that person has relevant experience.

Reliance on non-validated testing, and reliance on unnecessary job description requirements, do much to impede, and often they are totally misplaced. The Civil Service Commission must develop legitimate, realistic tests and qualification requirements.

14. Equal employment opportunity program staffing must be expanded

At present, one of the simple logistical problems in effectively operating the equal employment opportunity program lies in the lack of sufficient personnel. The testimony of one of the witnesses, Mr. Michael Ambrose, for example, revealed that there were only two professionals at the Civil Service Commission to monitor the entire federal program. And every agency needs added personnel to operate its own in-agency program. Consequently, it is essential that greatly expanded staffing for the equal opportunity office of each agency be undertaken. Furthermore, the supervisory agency—whether the Civil Service Commission or one such as we propose—must have an adequate staff.

15. Data collection and publication of data must be expedited and expanded

Under the present grievance procedure system, the agency charged with discriminatory practices investigates the very complaints made against it. It alone has full access to the records showing internal patterns of discrimination—data which may well be very relevant to the complainant's case. This system should be changed so as to require every agency to periodically—every three or four months—collate its data and make it fully and readily accessible to the public and to its employees.

THE 100TH ANNIVERSARY OF THE EULOGY TO AN IMMORTAL DOG, OLD DRUM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 30 minutes.

Mr. RANDALL. Mr. Speaker, it is my privilege and honor to represent Johnson County, Mo. The county seat of that county is Warrensburg, Mo., which is the home of Central Missouri State College. However, it is not because of the location of the college, but because it was the scene of the trial which included the immortal "Eulogy to a Dog," by Senator George Graham Vest, that has brought the most widespread fame to Warrensburg and Johnson County.

The final trial of Burden against Hornsby was held at Warrensburg on September 23, 1870. That trial was reenacted under the sponsorship of the Johnson County Historical Society in two performances each day on Saturday, September 12, 1970, and Sunday, September 13, 1970, at the old courthouse at 306 North Main in Warrensburg, Mo., in the same building where the trial took place 100 years ago.

It was my pleasure to witness portions of the last performance on last Sunday afternoon. It was something I shall never forget. The part of Senator George Graham Vest, attorney for the plaintiff, George Burden, was ably played by Gayles Pine. Plaintiff Burden was played by George Mitchell. T. T. Crittenden, attorney for the defendant, Leonidas Hornsby, was played by Robert G. Russell. The part of the defendant, Mr. Hornsby, was played by Charles Fitzgerald. Young Dick Ferguson was played by John Hart and the part of Mr. Harley was played by Stanley Braton, the present prosecuting attorney of Johnson County, Mo. Sitting on the bench was the Honorable David J. Dixon, who at the present time is circuit judge for the circuit which embraces Johnson and Cass Counties, Mo., while the part of the bailiff of the court was played by Frank M. Patterson.

"Drum" as the reenactment was named, was under the capable direction of Dr. Glenn W. Pierce, and staged under the general sponsorship of the Johnson County Historical Society, Dr. A. L. Stevenson, president. The costumes were faithful replicas of the clothing worn 100 years ago and the makeup prepared by the production staff was excellent. Each of the four showings of the reenactment was well attended.

As I prepared these remarks I found I soon became indebted to Icie F. Johnson, author of the "Old Drum Story," a book published in 1957 by the Warrensburg, Mo., Chamber of Commerce. In her foreword, Mrs. Johnson points out historical events too often become mere folk tales when their facts remain unrecorded. She goes on to point out that some of the articles written about the trial of Burden against Hornsby are not really factual, but somewhat imaginative. However, it was Mrs. Johnson who carefully combed the court records of the trial and has

come up with what is generally accepted as dependable material. The possible exception is "The Lost Speech" itself which is the description as signed by many to Senator Vest's speech to the jury, generally known as "A Tribute To a Dog." The trial of Burden-Hornsby was a long and involved legal battle. Actually, there were three trials that preceded the final one on September 23, 1870.

The plaintiff and the defendant in this case were neighbors and brothers-in-law who lived on adjoining farms. There had never been any feud between the two men. It was nothing more than Burden's love for his favorite hound dog that fired his anger and personal determination to secure justice over the death of his dog, Drum.

The record shows that Charles Burden was the owner of a beloved hound, named "Drum." He last saw his dog on October 28, 1869. At the trial he said he heard the fire of a gun from the direction of Mr. Hornsby's and he immediately became fearful his dog had been killed. When he called, Drum did not come. Hornsby denied that he had shot any dog. A young boy raised by Leonidas Hornsby did admit he had shot a dog with a gun loaded with corn, and Hornsby reluctantly testified from the witness' stand that he had urged young Ferguson to load the gun with corn so it would not hurt the dog too much. He did admit that the boy shot at a "black-looking" dog that "hollowed" like a hound dog. After the dog was hit, he said, he saw him jump over a fence and he did not "hollow" any more. Hornsby complained that dogs had killed about 100 of his sheep, but steadfastly denied that he had killed old Drum or dragged the body of the dog down to the creek. He did admit he had driven old Drum away from his farm with rocks. None of this story was enough to quiet Charles Burden, who insisted that, if he ever found out who had killed his dog, he would take it out of his hide. Burden said he loved his dog so much he would not have taken $150 for him. He described the dog as an experienced hunter. He said he was good on varmints and wolves. Burden claimed Drum was a good deer dog and, in conclusion, testified no amount of money could buy him.

The story of the trial is long and involved. At one of the earlier trials, Burden had a firm of lawyers, Elliott & Blodgett, but lost the case. Then he went to Sedalia to secure more legal aid from George Graham Vest, a man who later became U.S. Senator from Missouri. The defendant, Hornsby, was represented by T. T. Crittenden, who later became Governor of Missouri, and his partner, Francis M. Cockrell, who later became a U.S. Senator.

The courtroom contained quite an array of legal talent. Every lawyer on both sides of the controversy were good lawyers. Each won great distinction for himself in later years. The trial lasted all one rainy day and well into a stormy fall night. When it was ended, the plaintiff, Burden, heard jury foreman, W. O. Ming, read the verdict of the jury:

We the jury find for the plaintiff and assess his damages at $50.

Four days later there was a motion for a new trial filed, but overruled by the court. An appeal was made to the Supreme Court which upheld the verdict of the court of common pleas, which was the trial court in this case. It is interesting to note that in the margin opposite the verdict in the court records at Warrensburg is written:

This judgment paid in full this 18th day of September 1872.

When all was said and done the one thing that made the trial an historical event was Senator Vest's "Eulogy to a Dog," which was his final speech to the jury in that crowded courtroom in September of 1870. Even before then, Mr. Vest had been known as a formidable lawyer and an outstanding orator. He was not some unknown young, inexperienced lawyer. He had already served in the Missouri House of Representatives before the war. During the Civil War, he was a representative of Missouri in the Confederate Congress. Although a native of Kentucky, he had started for California after graduation from law school. On the way, he was involved in a stagecoach accident in which he suffered a broken arm near the village of Georgetown, Mo., a few miles north of Sedalia, Mo. While recuperating there, he defended a Negro boy accused of murdering a white woman. In the trial the boy was cleared, but the people refused to accept the verdict and the boy was publicly lynched. Shortly thereafer, George Graham Vest was threatened for defending this young slave and told to leave town. But Vest was so stubborn his answer to the mob was to stay in town, and to put out his shingle for the practice of law in Georgetown, Mo.

George Vest stood only about 5 feet 6 inches tall but observers say he seemed taller when he appeared before a jury. It is said he rammed his hands deep in his pockets as he talked, but he possessed an eloquence that would charm either the judge or a jury. He was not only an entertaining speaker, but a forceful speaker. He was possessed of a knowledge of literature and history which provided him a background few men possess.

The actual content of the "Eulogy to a Dog" has been described as "The Lost Speech" because there was no stenographer there on that night in 1870 to take down the emotionally inflamed words of the orator-lawyer, Mr. Vest. Less than 400 words are contained in the final portion of the appeal Vest gave to the jury, although he spent more than 1 hour presenting all of his arguments in the case. In his final 400 words he walked over to the jury and reminded everyone in the courtroom of the dogs they had that had been faithful, never mentioning the name of Drum. So powerful was the speech that most of the people had misty eyes.

There are several different versions of how the lost speech has been reconstituted. The first is that counsel for the defense, T. T. Crittenden, at the end of his term as Governor of Missouri recited Vest's speech from memory to the Kansas City newspapers. The second version is that Prof. William Lyon Phelps, who wrote a column for the New York Evening Post had been told the story of Vest's speech by Henry Wollman, a prominent New York lawyer who had practiced before in Kansas City and who was so impressed with the speech "he remembered every word." The third version, that is said to have led to the first printing of the eulogy, is that the Warrensburg newspaper actually printed the content of the speech the day after the trial. This has not been found to be true following a search of the files for that day, as checked by the Missouri Historical Review. The fourth idea about the printing of the speech proves once again that there was no one on the night of the trial, that wrote down the exact words. Judge M. D. Aber of Warrensburg supports this theory and points out that about 1890, John Montgomery, a lawyer in Sedalia, got together with Senator Vest and reconstructed as best they could the words of that part of the jury talk paying tribute to the fidelity of the dog. All agree this is not a rescript of what was said that rainy night but is probably the most acceptable of the four different versions about how the lost speech was finally reduced to writing.

Before I preserve in the CONGRESSIONAL RECORD Senator Vest's eulogy to Old Drum, I will take a moment to make reference to portions of an editorial written by the editor of the Warrensburg Daily Star Journal, Mrs. Avis Tucker. Reference is made in that editorial to the efforts of the chamber of commerce to secure the issuance of a commemorative stamp to honor the 100th anniversary of the renowned eulogy. Along with Senator SYMINGTON, as the Congressman representing Johnson County, I urged Postmaster General Blount to issue an Old Drum stamp, because I thought it would be an appropriate tribute not only to Old Drum but to all the millions of faithful dogs.

Mrs. Tucker's editorial quite interestingly points out that the story of the trial and the words of the tribute by Senator George Graham Vest have been reprinted all over the world. She notes that the Daily Star Journal recently received a letter from an elementary school class in Japan asking for reprints of the story of Old Drum.

The Star Journal points out that in 1956, nationwide publicity was given to the plan of the Warrensburg Chamber of Commerce to erect a memorial to Old Drum. Donations poured in from everywhere in denominations of a few pennies from children to $500 from President Harry S. Truman. A St. Louis sculptor, Reno Gastaldi, made the handsome bronze statue which now stands on the courthouse lawn. Several thousand people attended that dedication on September 27, 1958, and which turned out to be one of the most outstanding events that has ever taken place in Warrensburg.

Old Drum has been written up in books, newspapers, and magazines all over the world. There is almost unending evidence of the extensiveness of Old Drum's fame. Certainly it is far and wide. Certainly it is Old Drum and the immortal eulogy to that dog by Senator Vest that has brought Warrensburg, Mo., its most widespread fame.

George Graham Vest made himself famous with his classic piece of oratory

about faithful dogs. Old Drum was to Charlie Burden a true friend and devoted companion. Every word that Senator Vest uttered to the jury was eloquent and true. The Senator's words not only won the case for his client, but have won the hearts of countless thousands who have come to remember his speech as one of the literary gems of American history.

People who love dogs know that Senator Vest was speaking for all faithful dogs who for centuries have been a part of man's life.

While the statue of Old Drum is a beautiful piece of bronze, Drum himself was an outstanding hunting dog, most valuable to his master. It was unfortunate that he had to die to become a hero. But he was survived by a master with the unusual courage and determination to win satisfaction for this death.

Moreover, Drum would never have become famous were it not for the eloquence of one of Missouri's most able attorney-orators. All of these things warranted the statue which immortalizes Drum today on the lawn of the Johnson County Courthouse. I am sure Drum would be the first one, if he were able to talk, to agree that the memorial statue not only honors himself but all noble and faithful dogs who have been unselfish friends to their masters.

Mr. Speaker, it is a high honor and a great privilege on this 100th anniversary of the trial of Burden against Hornsby to incorporate for preservation in the CONGRESSIONAL RECORD, and in the Archives of the United States, Senator Vest's immortal speech to the jury in tribute to Old Drum, which while once lost has been put together again in words as follows:

"EULOGY TO A DOG"

(By George Graham Vest)

Gentlemen of the Jury: The best friend a man has in this world may turn against him and become his enemy. His son or daughter that he has reared with loving care may prove ungrateful. Those who are nearest and dearest to us, those whom we trust with our happiness and our good name, may become traitors to their faith. The money that a man has, he may lose. It flies away from him, perhaps when he needs it the most. A man's reputation may be sacrificed in a moment of ill-considered action. The people who are prone to fall on their knees to do us honor when success is with us may be the first to throw the stone of malice when failure settles its cloud upon our heads. The one absolutely unselfish friend that a man can have in this selfish world, the one that never deserts him and the one that never proves ungrateful or treacherous is his dog.

Gentlemen of the Jury, a man's dog stands by him in prosperity and in poverty, in health and in sickness. He will sleep on the cold ground, where the wintry winds blow and the snow drives fiercely, if only he may be near his master's side. He will kiss the hand that has no food to offer, he will lick the wounds and sores that come in encounters with the roughness of the world. He guards the sleep of his pauper master as if he were a prince. When all other friends desert, he remains. When riches take wings and reputation falls to pieces, he is as constant in his love as the sun in its journey through the heavens. If fortune drives the master forth an outcast in the world, friendless and homeless, the faithful dog asks no higher privilege than that of accompanying him to guard against danger, to fight against his enemies, and when the last scene of all comes, and death takes the master in its embrace and his body is laid away in the cold ground, no matter if all other friends pursue their way, there by his graveside will the noble dog be found, his head between his paws, his eyes sad but open in alert watchfulness, faithful and true even to death."

THE SST—HISSING THE VILLAIN?

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

Mr. CLEVELAND. Mr. Speaker, one of the subjects of wide debate in recent years is the SST, which is both acclaimed as a vital technological breakthrough which the United States must achieve, and criticized as a misguided use of money without consideration of environmental impact. There is certainly some truth on each side of the issue.

In the September 1 issue of Forbes magazine, Malcolm S. Forbes states the issue concisely in his "Fact and Comment" column. He is to be commended for doing so without including either the more dramatic rhetoric of the ardent environmentalists or the predictions of technological lag of the supporters of the project.

It is regrettable that the issue of Federal funds for the SST has never come squarely before the House for a record vote. It is an important issue which in our democratic system should be resolved in public by a recorded vote of the elected representatives of the people. The absence of a record vote on this issue has at least contributed to one good result, the adoption of the Gubser-O'Neill—record teller vote—amendment to the legislative reorganization bill now being considered by the House.

Had the question of further Federal assistance to the SST come before the House for a record vote, I would have voted against further expenditure for this plane. My reason for this position is one of priorities, and is well summarized by Malcolm Forbes:

Being able to cross oceans—at fantastic cost—quicker than you can now reach airports from home and office is simply an asinine assignment of priorities.

Even if concerns of possible damage to the environment are vastly overstated—and that is questionable—this expenditure is just not one of the most pressing needs for our limited Federal dollars. We have domestic needs which are simply more important, such as water and air pollution abatement programs, mass transit facilities for our urban areas, an all-volunteer armed forces, better care for our elderly citizens. The list is very long and these are but a few of our high priority needs, all of which are of course subject to our continuing need to maintain a fully credible defense posture as a deterrent to aggression.

The editorial follows:

HISSING THE VILLAIN

If you try pronouncing SST it comes out as a sort of cross between a hiss and an attention-getting psst. The SuperSonic Transport for which the initials stand is getting an increasing amount of both.

It's been a while since a Prince of Wales has made any public noises of particular relevance to this longago Colony, but Prince Charles, sounding every bit his father's son, recently made his observation to England on the touchy French-English SST, Concorde:

"Sometimes I think I would like to go in it. But then, if it is going to pollute us with noise, if it is going to knock down churches or shatter priceless windows when it tests its sonic booms—is this what we really want?

"This is one of the technological achievements which could do harm. What sort of price are we prepared to pay for this sort of advance?"

Being able to cross oceans—at fantastic cost—quicker than you can now reach airports from home and office is simply an asinine assignment of priorities.

HEARINGS ON NUTRITIONAL PROGRAMS FOR OLDER AMERICANS

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

Mr. BRADEMAS. Mr. Speaker, I take this time to announce that the Select Education Subcommittee will, this week, continue hearings here on legislation introduced by my distinguished colleague from Florida, CLAUDE PEPPER and cosponsored by close to 100 Members on both sides of the aisle, designed to provide incentive to the States for providing low cost, nutritionally sound means for the elderly.

Our next hearings open on Wednesday, September 16, and continue on Thursday, September 17, and Thursday, September 24, all in room 2175 of the Rayburn House Office Building.

Mr. Speaker, the following is a list of witnesses:

WEDNESDAY, SEPTEMBER 16, 9:45 A.M.

Hon. CLAUDE PEPPER, Member of Congress, Florida.

Hon. BERTRAM L. PODELL, Member of Congress, New York.

Peter Hughes, legislative representative, National Retired Teachers Association, American Association of Retired Persons; accompanied by Robert Sykes, legislative representative, National Retired Teachers Association, American Association of Retired Persons.

Conrad J. Vuocolo, director of tenant services, housing authority, Jersey City, N.J.

Peggy Sheeler, Meals on Wheels, Inc., Baltimore, Md.

THURSDAY, SEPTEMBER 17, 9:45 A.M.

Dr. William Bechill, assistant professor, University of Maryland School of Social Work and Community.

William R. Hutton, executive director, National Council of Senior Citizens.

Sandra Howells, project director, Gerontological Society.

THURSDAY, SEPTEMBER 24, 9:45 A.M.

John B. Martin, Commissioner, Administration on Aging, special assistant to the President.

Stephen P. Simonds, Commissioner, Community Services Administration, Social and Rehabilitation Service.

Richard Lyng, Assistant Secretary of

Agriculture, Consumer and Marketing Services, Department of Agriculture.

Dr. Thomas Bryant, Assistant Director of Health Affairs, Office of Economic Opportunity.

PROTECTING POLICEMEN AND FIREMEN

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

Mr. HECHLER of West Virginia. Mr. Speaker, people throughout the Nation have been deeply disturbed by the senseless shooting and harassment of policemen and firemen in the line of duty. These dedicated public servants are working to protect all of us, and when they are attacked, it is an attack on everyone and society suffers.

The fatal shooting of policemen which occurred recently have made it obvious that additional measures are necessary for the protection of these public servants. I have therefore introduced H.R. 19138 making the murder of a policeman or a fireman a Federal crime, thus enabling the FBI to enter the case. This is a companion bill to that sponsored by Senator HARRISON WILLIAMS, Democrat of New Jersey.

The text of the bill follows:

H.R. 19138

A bill to prohibit flight in interstate or foreign commerce to avoid prosecution for the killing of a policeman or fireman

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 49, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1075. Flight to avoid prosecution for the killing of a policeman or fireman

"(a) Whoever moves or travels in interstate or foreign commerce to avoid prosecution, custody, or confinement after conviction, under the laws of the place from which he flees, for willfully killing a police officer or fireman while such police officer or fireman was engaged in the performance of official duty shall be fined not more than $5,000, or imprisoned not more than five years, or both.

"(b) Whenever a police officer or fireman is willfully killed, while such policeman or fireman is engaged in the performance of his official duties, and no person alleged to have committed such offense has been apprehended and taken into custody within twenty-four hours after the commission of such offense, it shall be presumed in the absence of proof to the contrary that the person who committed such offense has moved or traveled in interstate or foreign commerce to avoid prosecution or custody under the laws of the place at which the offense was committed.

"(c) This section shall not be construed to evidence an intent on the part of the Congress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by the Congress.

"(d) As used in this section—

"(1) the term 'police officer' means any officer or employee of any State who is charged with the enforcement of any criminal laws of such State;

"(2) the term 'fireman' means any person serving as a member of a fire protective service organized and administered by a State or a volunteer fire protective service organized and administered under the laws of a State; and

"(3) the term 'State' means any State of the United States, the Commonwealth of Puerto Rico, any political subdivision of any such State or Commonwealth, the District of Columbia, and any territory or possession of the United States.".

(b) The section analysis of chapter 49, title 18, United States Code, is amended by adding at the end thereof the following new item:

"1075. Flight to avoid prosecution for the killing of a policeman or fireman.".

THE NEW HOPE CENTER IN KEENE, N.H.—THE FULFILLMENT OF A DREAM

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

Mr. CLEVELAND. Mr. Speaker, I have long been personally interested in the problems of our handicapped citizens. Mostly as the result of this interest I became a trustee of the New Hope Center in Keene, N.H., a school for the handicapped. The growth of this center has been remarkable, and has justified the name "New Hope" which it has borne.

This center contrasts so vividly with the massive, grandiose Government programs which we in Congress are asked to establish and fund. Here in Washington we are told that the answer to all of our problems is to allocate lots of money, and the problems will be instantly solved and, even better, go away.

The New Hope Center, however, shows us that this is not the only or even the best approach, for it has always operated on a shoestring budget—and the director of the center, my friend Jim Haddock, might add that there often seemed to be no shoes to go with the shoestring. Though money it lacking, the center did have interested people behind the project, dedicated volunteers and staff, imaginative leaders, and most important people who loved children and wanted to help them.

With these assets the center has grown to maturity and relative security, with its entire budget for the coming year already pledged or in the bank. This security is proof of the good work of the project, for unless people were enthusiastic about its work they would not have donated money or time.

Perhaps as the result of this background, the New Hope Center continues to show the creativity lacking in so many of our well-financed schools. This summer, for example, the center had its first summer session, in which the goal was to get handicapped teenagers to become involved in work projects: gardening, handicrafts, and domestic cleaning. These young people have been working with their hands, accomplishing something with sale value in the community, and having a chance to interact with people in the community. Not dramatic in the Washington world of billion-dollar solutions, perhaps, but to the handicapped teenagers involved it is very dramatic to be doing the things other young people are doing.

Mr. Speaker, at the first annual meeting of the New Hope Center, Jim Haddock gave a short but very eloquent speech telling where the center is coming from and where it is going. Jim has been a dynamic, creative director of the New Hope Center, and the speech which he gave on that day demonstrates why the New Hope Center is the success which it is. It has been an honor of mine to serve as trustee of the center, and to know Jim Haddock and all of the other fine people who have made this a success, and who have helped so many young people to realize their own potential.

The speech follows:

THE NEW HOPE CENTER, FIRST ANNUAL MEETING, MAY 24, 1970

Distinguished guests, staff, members of the board, children, parents, and friends: I welcome you and thank you for coming here this afternoon. We are here to bear witness to a dream—not my dream or your dream—but our dream.

The New Hope Center is today a reality born of the dreams of many—dreams of hope—hope for tomorrow—nurtured and birthed by the Cheshire County Association for Retarded Children. The New Hope Center spent a brief childhood in the cramped quarters of a church. Dollar poor and pennyless the program began with a staff of one, thankful for the space and the chance.

Two years ago we moved to this building leased to us for a nominal fee by the public school system.

Here we entered our adolescence, gangly and gauche, with multiple spurts of awkward growth. Our enrollment has doubled as has our staff. We have incorporated on our own. So with bandy legs we stand. Maturing is never easy—we have tried to learn from our errors, stand a bit straighter and go on.

Look not to yesterday, it is history—learn, oh yes, learn from it, but look to now and tomorrow which can still be shaped and molded—look to fulfillment of that dream of hope for our center; yes, *our* Center.

This year has been a year of growth and change as we struggle to come of age. We have raised our budget for this year in advance. We have a crew of teenagers who work in the community doing domestic cleaning. We have planted a garden with the hope of selling produce; we have manufactured and sold products. We are a staff of devoted, capable teachers trying to grow with our students.

Others have helped: A team of volunteers has always been ready to tackle any task. If I were to list our volunteers we would stand here all day and even then I would undoubtedly miss a few so I thank you all as a group—those who cook our meals; those who clean our building; those who daily drive children to the center; those who work directly with children; and those who raise money and those who give money; the county legislators and those who call legislators on our behalf; above all, those who love us and speak well of us in the community.

The dream is alive and growing. The dream is coming of age—true maturity lies on the path ahead and we are moving swiftly towards it. I see next year surpassing this and again the same the next.

We have a dream—the dream is the dream of hope—New Hope, New Hope—New Horizons.

NECESSARY LEGISLATIVE PROGRAM FOR REMAINDER OF THIS SESSION

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. GERALD R. FORD. Mr. Speaker, time is running out on the second session of the 91st Congress, and yet the record of this Congress in the past 8½ months can be described as little better than a mixed bag.

I recently remarked that passage of the Postal Reform Act of 1970 would go down as one of the 91st Congress' finest achievements. I meant every word of that observation. Today I must sadly add that postal reform will stand as the single outstanding achievement of the 91st Congress' second session unless the Congress responds immediately to the President's September 11 call for action.

The time is ripe for reform. We have fulfilled that promise to a degree but much of the field remains unplowed. The soil is fertile and the President has supplied the seed ideas. Let us in the Congress get about the business of producing a crop of reforms which will make government truly effective in America.

Apart from basic reforms listed by the President, much legislative business lies ahead of the 91st Congress. Let us accept and act quickly on the President's challenge to strengthen our anti-crime laws, clean up the environment, consolidate our manpower training programs and control drug abuse.

An election is coming up. But let every Member of Congress remember that the best politics is to legislate in the best interests of the American people. Obstructionism has never paid off at the polls—and the people know who the obstructionists are. Let us join hands to move America forward. So little time remains in this session.

Mr. POFF. Mr. Speaker, it is disappointing that some of our colleagues have reacted to the President's message last Friday in a partisan manner. I have carefully read this document and it appears to me that the President has not indicted any person or political party.

In fact, he said:

> More is at stake than the reputation of one political party or another for legislative wisdom or political courage. What is at stake is the good repute of American government at a time when the charge is that our system cannot work hurled with fury and anger by men whose greatest fear is that it will.

I would submit to my colleagues that this is precisely the challenge before Congress—to prove that we can provide leadership, that we can reform the institutions of American government to meet the new needs of the modern world. It would be a tragic mistake for the Congress to ignore that challenge.

The President has sent his legislative proposals to the Congress. While they cover a wide range of issues, there is a factor common to each of these proposals—that is, each is designed to respond to demonstrated needs. We may not all agree that the President's method of meeting these needs is the best way in each case; but, the needs must be met.

The task now before Congress is to get on with the business of reform. As the President said, "Matters press, we cannot wait for politics."

Mr. TAFT. Mr. Speaker, one passage in the President's Friday message to the Congress is particularly interesting, and I would like to repeat it. I quote:

> Our present problems in large degree arise from the failure to anticipate the consequences of our past successes. It is the fundamental thrust of technological change to change society as well. The fundamental task of government in the era now past was to somehow keep abreast of such change, and respond to it. The task of government in the future will be to anticipate change: to prevent it where clearly nothing is to be gained; to prepare for it when on balance the effects are to be desired; above all to build into the technology an increasing degree of understanding of its impact on human society.

I would submit that this is an apt and perceptive statement of the challenge that now faces Congress. Our task is to anticipate change, yet the Congress to a large degree has not done this.

During the past year, the President has sent to the Congress a package of legislation which cuts across a wide spectrum of social issues. Some of this legislation is responsive to long-overdue needs. Other bills such as the Revenue Sharing Act and the Manpower Training Act, are those that anticipate change.

Mr. ARENDS. Mr. Speaker, in his message to the Congress last Friday, President Nixon accurately pointed out the need for reform in our society. Unfortunately, that message will serve little purpose if it is ignored by the Congress.

Some of our Democratic colleagues have already attempted to dismiss that message as a political ploy. If they are successful then that message will become just another piece of paper sent to the Congress and forgotten in the course of a week. But the losers will not be the Republicans or the President; the losers will be the American people.

Mr. Speaker, the President's call for an era of reform reserves a better fate. No Member of this body can doubt that we live in an age of unrest. I do not refer to the radical fringe elements of either side of the political spectrum. They will probably always exist, picking away at the structure of American society. Rather, I refer to the unrest which is felt today by the average Americans.

They are uneasy. When they look around they see that their institutions are not working quite the way they should. They see unchecked pollution, unchecked crime and violence, unsolved problems of all kinds. In many ways, in the last decade, they have been let down by their Government because it has not been able to change, to reform, to address itself to contemporary life.

The President has sent to the Congress a legislative program which is designed to provide the necessary reforms. Mr. Speaker, Congress must not dismiss that program as partisan politics or business as usual. That just is not good enough in today's world.

Mr. SMITH of California. Mr. Speaker, in his call for cooperation to the Congress last Friday, the President stated—quite accurately, I believe—

> The most neglected and the most rapidly deteriorating aspect of our national life is the environment in which we live.

The President has recognized the crisis of our environment, and he has taken steps to meet that challenge. He has established the Council on Environmental Quality and has asked Congress to approve a reorganization plan which would establish an Environmental Protection Agency and a National Oceanic and Atmospheric Administration. These new institutions should provide the mechanisms necessary to fight back against pollution which assaults the American citizen from all sides.

But regulatory agencies are not enough. We must have new laws in this field, and the President has proposed what he frankly terms, "the most comprehensive and costly program of environmental control in the history of the Nation."

GENERAL LEAVE TO EXTEND

Mr. GERALD R. FORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks with reference to the message sent to the Congress on the administration's program and call for cooperation by the Congress.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

THE GUERRILLA HIJACKINGS

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PODELL. Mr. Speaker, the boundaries between international law and international anarchy have faded. Human life has become but a pawn in the struggle for violent and irrational ends. Technology, once thought to be a liberating force, victimizes. Nations thought to be powerful seem impotent before the onslaught of events. Many traditional assumptions and distinctions have been rendered all but meaningless in the context of the Arab guerrilla hijackings.

Outrage and basic disbelief have been joined in the minds of so many spectators. The hijackings seem beclouded by an air of unreality, and yet they are all too real. Fifty people are still help captive.

These outrages on human life are the product of a situation that nurtured their existence. Fed and educated in hate and destruction, tolerated when they should have been punished, applauded when they should have been vilified, the Arab guerrillas have become a threat to the international order. Even their erstwhile protectors are in danger.

Their erstwhile protectors, the Arab Nations, are now disclaiming any responsibility for the hijackings. Yet the fact of the matter is that they share a large portion of the blame. They are the ones who nurtured the guerrillas. It is their teachings that provided the spark that set off these series of international explosions. Their political stand left the Arab refugees stranded on the west bank with no home except refugee camps. Finally, it is the Arab States who supplied the guerrillas with the arms that they have used to terrorize innocent victims.

The history of the Palestinian refu-

gees demonstrates how far Arab responsibility stretches. When the State of Israel was created in 1948, she urged all Arabs living in the territory to remain. Israel promised them equal rights and a fair share in Israel's future. Approximately 175,000 Arabs—a bit more than one in five of all Arabs then living in Israeli territory—did stay in Israel. The Arabs who did remain now have a standard of living higher than the people in any Arab nation. They are in one sense of the word refugees.

But approximately 575,000 Arabs did leave what was to be Israeli territory. They were not forced out by the Israelis. On the contrary, there are records of broadcasts, leaflets, and official pronouncements urging each Arab to stay. But Arab leaders, the Grand Mufti in particular, urged all Arabs to leave Israel. The Mufti promised that the Arab armies would destroy the Jewish populace within 3 months. When Israel had been vanquished, the Palestinian Arabs were promised their land back. The majority of the Palestinian Arabs heeded the advice of the leaders and left Israel. Israel won the war, and the refugees were left on the west bank.

Documentation supporting these facts is overwhelming and conclusive. The Jordanian newspaper, ad-Difaa, summing up the events of 1948 said:

> We were masters of our land, happy with our lot . . . but overnight everything changed. The Arab governments told us, "Get out so that we can get in." So we got out, but they (the Arab governments) did not get in.

Two facts are made clear by the history recounted above. First, it is obvious that the Palestinians became refugees because they were prodded and threatened by Arab leaders. Motivated by their threats, the Palestinians left Israel voluntarily.

Second, when their initial promise of victory failed, the Arab Nations deliberately built their own fences around the refugee by refusing to let them resettle in the Arab countries.

Building on the desperation of these people and educating them in hate, the Arab Nations supplied the refugees with arms. The camps became training grounds for guerrillas bent upon the destruction of Israel. The consequences of such irresponsible action are evident in the week's tragic events. A type of fifth column was created which now threatens the safety of innocent people and exercises tremendous influence in every Arab State. Here then is the child that the Arabs, with some Russian help, nurtured so skillfully.

Thus, then we arrive at the present—a time when 50 men and women remain as hostages, threatened by a group whose aim is to sabotage the almost nonexistent cease-fire talks, embarrass the West, and ransom members of their own group who like themselves have committed criminal acts on an international scale.

We are dealing with a group that operates outside the boundaries of any moral or ethical code. After screening hostages on the basis of their religion, men, women and children of the Jewish faith were not permitted to leave the aircraft. This act amounts to nothing short of genocide—action that seeks the deliberate destruction of a religious group. Yet we must project further. Should any man, woman, or child of any faith, nationality or race have to suffer such fear, danger, and harassment? I say unequivocally, No.

We sit and hope for the safe release of the people still in Palestinian hands. Yet also hope for the prevention of such future incidents. How are we to achieve this?

The range of possible action seems wide, but in reality the choice is narrow. Criminal sanctions and safety regulations seem to have little practical value. Guards and improved detection devices can be of some help. Diplomatic efforts, however, seem to hold the most promise.

The United States is a recent signer of the Tokyo Convention which attempts to lay some foundation for treatment by hijackers and the passengers, crew, and aircraft. The convention assures no mandatory extradition of the hijacker nor does it deal with the prosecution of the hijacker by the state. Yet there is a positive obligation on contracting states to take all appropriate measures to restore control of the aircraft to its lawful commander and to pursue his control of the aircraft.

Somehow, these words and recommendations seem empty in the light of recent tragic events. Clearly, conventions and recommendations will do little to prevent further incidents unless the nations of the world take them seriously. Condemnations can be effective only when nations act in concert.

I believe that the most effective means to prevent these ignominous events in the future is the suspension of airline service to nations that harbor, welcome or allow hijackers to land in their country. Countries seeking to prevent such future incidents should not permit aircrafts of governments sheltering hijackers to land in their country.

The International Civil Aviation Organization, as the international spokesman for airline personnel, can issue a strong statement of policy and invoke their own particular sanction on nations that do not conform.

Yet waiting for one's neighbor to act in this situation is insufficient. The United States must be prepared to invoke these measures—alone, at first, if necessary. Effective leadership is needed on this matter in a world in which order seems to be deteriorating. The United States can take the first step in providing such leadership.

At the same time, let us hope for the safe return of the people still held by the hijackers.

THE ELDERLY AND HANDICAPPED AMERICANS TRANSPORTATION ASSISTANCE ACT

(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, a news story in the August 12 edition of the New York Times reports a grim account of tragedy. Since last fall, two blind persons have fallen through unprotected gaps to the subway tracks. In the first such accident, last October 6, the train started in motion and severed the right leg of a blind woman. In the second incident, last January 13, startled passengers who saw a blind man fall alerted the crew before the train was set in motion. The victim was rescued, but he reported an injured left leg.

These accidents need not have occurred. It was not the blindness of the victims to which the blame for their occurrence can be solely laid. They occurred, as the news story reports, because of the design of the subway cars. The lack of pantograph gates between cars led the blind persons to believe they were walking from the platform through the train's doorway, according to subway personnel. Actually, the space they sensed was that between the cars, and they dropped to the tracks below.

The fact is that not only have we failed to meet the transportation needs of our able-bodied citizens in any manner approaching adequate performance, but we have particularly neglected and ignored the needs of the handicapped and the elderly—both groups which experience particularized transportation problems.

I have previously in the 91st Congress attempted to provide some relief by means of legislation for handicapped persons experiencing transportation problems. H.R. 644 provides a deduction for income tax purposes for disabled individuals for the expenses incurred in securing transportation to and from work. This is in line with the 1968 study conducted by Arthur D. Little, Inc., for the Social and Rehabilitation Service of the Department of Health, Education, and Welfare. This study, entitled "Employment, Transportation, and Handicapped," examined the problems of the handicapped in securing transportation, and the effect of income tax deductions for excessive transportation costs experienced by this group.

H.R. 644 is a worthwhile step. It is recognition of a significant problem, and it offers some relief with regard to that problem. However, far more significant steps are necessary. Obviously, the woman who lost her leg in the New York subway accident, and the man who injured his, can receive little real relief by being eligible for an income tax deduction. Moreover, the handicapped often have incomes so low as to render considerations of tax deductions moot.

Because real relief can and should be provided, I am today introducing the Elderly and Handicapped Americans Transportation Assistance Act—H.R. 19216. This bill offers a comprehensive, full-scale remedy to the transportation barriers presently arrayed against the elderly and the handicapped.

"Transportation and the Handicapped," the report of the President's Committee on Employment of the Handicapped, issued in April 1969, very concisely and very starkly describes the sit-

uation of the handicapped with regard to transportation facilities:

The transportation system as we know it today either completely shuts out or unreasonably restricts one particular element in our society—those whose physical capacities keep them from functioning at a level close to normal.

The most comprehensive recent study exploring the problems of the handicapped with regard to transportation is entitled "Travel Barriers," and was prepared for the Department of Transportation in 1969 by Abt Associates, Inc., under a contract awarded by the Department. This study is much too long to fully recount here, but I think that some of the findings are particularly worth noting, even if just briefly.

The number of handicapped persons experiencing transportation difficulties totals more than 40 million. Some of the handicaps which afflict these people are passing in nature, and I would not want to misleadingly recount this figure. But, the chronically handicapped alone account for about 3 percent of the national population—6,093,000 men, women, and children. In addition, there are more than 18,000,000 men and women 65 years of age and over. A significant percentage of them experience, because of natural aging processes, transportation difficulties. There are at least another 4.6 million people who at any given time are suffering from a serious but short-term illness or injury which restricts their mobility possibilities. Finally, there are several million more people who experience significant difficulties with present transportation facilities because of oversize, undersize, or pregnancy.

Projections for 1985—just 15 years from now—indicate that the number of transportation-handicapped individuals—that is, individuals who, because of a disability, are disadvantaged by the present transportation system and processes—will be even greater. Nearly 5.2 million people will be unable to change levels under their own strength—that is, they will be barred by stairs and in some cases, ramps. Almost 2.4 million persons will have difficulty with some or all of the following functions; passing through turnstiles, opening vehicle doors, lifting baggage, grasping overhead supports, using handrails, and handling small change.

The difficulty of sitting down or getting up while in a moving vehicle, or transferring safely from a stationary position to a moving one—as in an escalator—will be experienced by 3.7 million people in 1985. As the 1969 study, "Travel Barriers," points out at page 21:

This is especially important in vehicles where acceleration is great or begins before the handicapped rider has the opportunity to be seated.

The inability to lift and carry parcels and packages will contribute to the transportation problems of another 3 million people in 1985. Intermodal transfers will be difficult for more than 4 million people in 1985, since they generally require that the passenger be able to walk, or go in a wheelchair, the equivalent of a block or more, and that he be able to wait, standing, until the vehicle is ready to accept passengers.

For either physical or psychological reasons, 4.5 million citizens will experience difficulty moving in crowds. And somewhat less than a million people will be affected by difficulty in identifying audio and visual cues. Finally, there will be the millions who, at any given time, will be incapacitated by transportation modes because of temporary injuries, illnesses, and other restrictions on their mobility.

I think it should be clearly understood that failure of present transportation facilities to meet the needs of the millions of handicapped and elderly people who need public transportation results in a very considerable economic loss—both to these individuals, and to the taxing governments which would benefit by the increased incomes of these individuals.

The Arthur D. Little, Inc., 1968 study, "Employment, Transportation and the Handicapped," was particularly directed at examining the "employable transportation handicapped." That study came up with an estimate of 1,493,000 persons falling into this group. Of course, 7 percent, or 103,000, were estimated to be "transportation sensitive unemployed," either because of the cost of unavailability of transportation to work. If each of these persons were successfully encouraged to return to work, the study estimated that incomes of $452,692,000 would be generated annually, or $4,388 each. In addition, welfare payments to these persons would decline by $49,582,000. And income taxes would increase by $39,697,000.

The 1969 study conducted by Abt Associates, Inc., for the Department of Transportation estimated an even higher number of persons who would benefit in terms of employment opportunities. This study revealed that of the entire handicapped population, 13 percent of the persons aged 17 to 64—the age group comprising potential labor force members—indicated that transportation was a factor in their not being employed and that they would return to work if transportation were no longer a problem. The study, on the basis of its assumption that only handicapped persons located in standard metropolitan statistical areas would benefit from any metropolitan transportation program, concluded that 189,015 persons out of the target population of 1,456,000 handicapped SMSA residents would return to work. The total yearly economic benefits which would result—that is, the total yearly increase in goods and services—would amount to $824,040,000, or about $3,887,000 per standard metropolitan statistical area.

"Travel Barriers" very correctly pointed out that the benefits of improved public transportation for the handicapped and elderly are only in one respect economic. As the study stated:

The social benefits of enabling many handicapped persons to work, study, and participate in recreational activities are equally compelling. These benefits also include the reduced burden of aid on friends and relatives of the handicapped individual, the increased contribution to community activities of many talented and well educated handicapped persons, and the reduction of the often debilitating and productivity inhibiting emotional burdens of physical tragedies on the entire community (p. 27).

In addition, the psychological benefits to the handicapped person whose mobility is expanded by improved transportation are considerable. Contacts with other people increase; self-esteem also increases. In fact, most respondents in the Abt sample population made a connection between increased mobility and an improvement in their general outlook on life. When asked if the chance to take more trips would make a difference in their outlook, 62 percent of the sample replied affirmatively. Of these respondents, 88 percent indicated that they would take at least one to two additional trips weekly, if given the opportunity.

In the sample group which the Travel Barriers study examined, close to 41 percent of the respondents indicated that life was made difficult for them because of limitations in their secondary activities—such as shopping, participating in recreation—and in their social life. Of these respondents, 94 percent indicated that they would take at least one to two additional trips per week if they had access to a low-cost, barrier-free transportation system.

Of particular note with regard to the social and psychological benefits which would accrue from improved transportation facilities are the concerns of the elderly. In providing a brief profile of the normal travel behavior of this group, Travel Barriers stated:

The aging take more trips than do other segments of the handicapped population, probably because they are relatively less disabled and generally have more leisure time. The average number of daily intra-regional trips taken by the aging is 1.74 compared with 1.3 taken by all handicapped persons. Obviously, this group takes fewer work trips, but more shopping, medical, and "other" trips. (P1107.)

The study continued in conclusion:

In sum, it appears that the aging, being more dependent on public transportation, closer to social activities, and in possession of a more positive self-concept, would be more likely to explore the increased opportunities provided by the removal of travel barriers. Thirty per cent of this group, compared with 21% of the rest of the handicapped population, indicated that they would take additional shopping trips, and 52% of the aging, compared with 49% of the total sample, said they would take more recreation trips if they had access to a low cost public transportation system that they could use comfortably and safely. (P. 108.)

It is clear that the transportation handicapped population is large and that it is desirous of change. It is also clear that improvements in the public transportation systems would be of enormous benefit to the handicapped and the elderly, and thereby to all of us.

What barriers do the handicapped and the elderly face in public transportation? The answer is—many. Following is a chart from the 1969 Abt study showing some of these barriers in relation to the disability afflicting the individual traveler:

TYPICAL BARRIERS BY MODE

Functional disability	Train	Subway	Bus	Airplane
Walk more than 1 block	Walk from curb through concourse to platform.	Walk from entrance to boarding platform.	Walk from origin to stop or stop to destination.	Walk from curb to gate.
Self-propelled level change	Board train via steps.	Enter or exit station.	Board bus via steps.	Board plane via stairs.
Sit down, get up	Sit/rise from waiting room or train seats.	Sit/rise from seat in car.	Sit/rise from seat.	Sit/rise from seat in lounge or on plane.
Stoop, kneel, crouch	Pick up baggage.	Pick up packages.	Pick up packages.	Pick up baggage.
Reach-handle	Open terminal door. Enter restroom. Grasp handrail. Open compartment door. Lift suitcase to rack. Buy or turn in ticket.	Buy token. Operate turnstile. Hold overhead grip. Use exit turnstile.	Signal bus. Deposit fare. Grasp overhead grip. Pull signal cord.	Buy ticket. Handle baggage. Fasten seatbelt. Reach overhead switches. Hold oxygen mask. Lower tray table.
Carry 10-pound weight	Carry baggage. Use overhead baggage rack.	Carry packages.	Carry packages.	Handle own baggage.
Move in crowds	Terminals.	Platform and vehicle.	Terminal vehicle.	Ticket counter, boarding area.
Identify visual and audio cues	Read direction signs, clocks. Locate gates, restrooms, seats, exits. Hear announcements and warnings.	Read direction signs. See arriving train. Locate platform edge. Hear announcements and warnings.	See approaching bus. Read bus destination. Locate bus stop, curb, stop. Hear announcements, ask directions.	Locate counters, gates. See schedule displays. Hear PA system onboard announcements.
Wait standing	Wait on platform.	Wait on platform.	Wait outdoors.	Stand in boarding or ticket line.

Other transportation problems confronting the elderly and the handicapped are particularly related to the travel situation. For example, acceleration and deceleration, especially when uneven, can cause hazardous encounters between the passengers and stationary parts of the vehicle. Fifty-five percent of the handicaped interviewed for the "Travel Barriers" study said that they would have difficulty staying on their feet during a typical subway start, and many indicated that they had trouble remaining standing in an accelerating bus. Thirty-seven percent of the group doubted that they could walk to a restroom in a moving train, and 21 percent said that they would be unable to do so in an airplane. Approximately half of the group was not able to ride standing with a typical grip to hold.

Crowd movements are also one of the travel barriers particularly difficult for the handicapped and the elderly, who are less able to maneuver quickly and easily, especially in crowded situations. Also, time pressure disadvantages these people for the same reasons.

Long walking distances in terminals are also a problem for the handicapped and the elderly. They are also limited by such impediments as braces and wheelchairs. And sensory limitations impair the mobility of the blind.

Costs are also a major barrier, of an economic nature, to travel by the elderly and by the handicapped. The recent findings of Project Find, conducted by the National Council on the Aging to give a national picture of the elderly poor, are particularly illustrative here:

> Amount of income appears to be very important in the degree of difficulty experienced. Very small amounts of income added to that of persons living at the poverty line appear to result in considerable alleviation of transportation problems.

Reduced fare plans, such as are currently in operation in approximately 35 cities, including New York City, would be particularly beneficial. More than 5 years ago I first recommended a reduced fare program for the elderly in the city of New York.

The Abt study findings are also particularly noteworthy—they include together both the elderly handicapped and younger handicapped individuals. In using the city of Boston as a survey area, the study found:

> Curtailed labor force participation of the physically handicapped accounts, in part, for their generally very low incomes, and the low incomes in turn further limit their lifestyle. In addition to having lower earned incomes, the disposable income of handicapped persons is decreased as a result of higher medical costs.
>
> Compared with the non-handicapped population in the city of Boston and its environs . . ., the median personal income for handicapped persons is very low, between three and four thousand dollars, instead of five to six thousand. This is confirmed by additional data from the sample which indicated that the median loss in income attributable to the disability was $2000. Sixty-nine percent of the Abt handicapped sample had incomes below $3000 for the last year and only 36% fell into this same category before the onset of their disability.
>
> * * * * *
>
> As expected, family income is highly correlated with job status. The employed handicapped tend to fall into higher income categories than do the unemployed. (P. 50–52).

I think it eminently clear that the elderly and the handicapped face considerable difficulties in utilizing current transportation facilities—both because of physical barriers and because of cost. It is also clear that various steps can be taken to alleviate and even eradicate many of these difficulties. The "Travel Barriers" study suggest several such steps. It also analyzes the feasibility of such approaches as a specialized system serving only the handicapped and elderly, and concludes that such a system would be economically practicable.

More study is needed, of course. But, perhaps more important at this juncture, action is needed. Little is really being done to deal with the transportation needs of the handicapped and the elderly—needs which appear to be by now quite well articulated, but which have not yet received sufficient positive, tangible attention.

My bill, H.R. 19216, the Elderly and Handicapped Americans Transportation Assistance Act, offers a program which, while moderate, is an intelligent, reasonable approach, I believe. The bill amends several provisions of the Urban Mass Transportation Act of 1964. Section 2 of the bill assures that special transportation services for the elderly, and the physically and mentally handicapped, which are operated by States or local public bodies will be eligible for assistance.

Section 3 of the Elderly and Handicapped Americans Transportation Assistance Act directs the Secretary of Transportation, in consultation with the Secretary of Health, Education, and Welfare, to prescribe standards for buses, subway cars and other rolling stock, and prevents any assistance being given to States or local public bodies seeking funds under the Urban Mass Transportation Act unless they comply with these standards. Thus, it will be assured that those who are handicapped will be able to use the new transportation facilities which will be built with Federal assistance, and which will be improved or bought with Federal assistance.

Section 4 of my bill provides that in addition to whatever sums are allocated out of present authorizations for the funding of special transportation services, there shall be an additional authorization added to the existing authorization, which shall be earmarked for these services. My bill provides $5 million for fiscal year 1971, $10 million for fiscal year 1972, and $20 million for fiscal year 1973.

Section 5 takes cognizance of the fact that while special service projects—such as Dial-A-Bus—can now be actually funded, further study is also appropriate. Thus, the bill provides for research and demonstration projects to provide transportation for the elderly and the handicapped. For these projects, $3 million is authorized for fiscal year 1971, $5 million for fiscal year 1972, and $8 million for fiscal year 1973.

In addition to the Elderly and Handicapped Americans Transportation Assistance Act, I have today introduced a related bill—H.R. 19217—which makes up an additional part of this legislative formula to provide needed answers to an acute problem. This bill amends the act of August 12, 1968, to insure that facilities constructed with assistance under the Urban Mass Transportation Act of 1964 are designed and constructed to be accessible to the elderly and the handicapped.

A similar provision was enacted into law earlier this year. Public Law 91–205 requires that the Washington, D.C., area subway—Metro—be constructed so as to enable utilization by the handicapped. My bill would expand this concept to authorize that all buildings designed, constructed, or altered with assistance under the Urban Mass Transportation Act—that is, buildings such as subway and

bus stations—be maximally utilizable by the physically disadvantaged. As a corollary, the Elderly and Handicapped Americans Transportation Assistance Act requires that rolling stock—such as buses and subway cars—also be so designed, constructed, or altered.

I urge the most careful consideration of these bills by my colleagues. I think I have sufficiently detailed the problem, and I think these two bills make a major step in resolving that problem. But, speaking in less abstract terms, I would say that these two bills help people—people who need help, people who want to be, and can be, self-sufficient, active, citizens. These bills open the door. And that is all that is asked.

The text of my two bills follow:

H.R. 19216

To amend the Urban Mass Transportation Act of 1964 to provide assistance in the design and construction of transportation services and facilities meeting the needs of the elderly and the handicapped

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Elderly and Handicapped Americans Transportation Assistance Act."

SEC. 2. Section 12(c)(5) of the Urban Mass Transportation Act of 1964 is amended by striking out "but not including" and inserting in lieu thereof "including special transportation service for the elderly and the physically and mentally handicapped, but not including."

SEC. 3. Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(d) In order to assure that the elderly and the physically and mentally handicapped will be able to make maximum use of any mass transportation system with respect to which assistance is provided under this Act, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall by regulation prescribe such standards (governing the construction and equipment of the rolling stock and other facilities to be used in such system) as he determines to be reasonable and appropriate and calculated to permit such use. No financial assistance shall be provided under this Act to any State or local public body or agency thereof unless the facilities and equipment to be acquired, constructed, or improved with such assistance will be in full compliance with such standards."

SEC. 4. Section 4(b) of the Urban Mass Transportation Act of 1964 is amended by inserting immediately after the first sentence the following new sentence: "In addition, to finance grants under this Act to provide special transportation services for the elderly and the physically and mentally handicapped, there is hereby authorized to be appropriated not to exceed $5,000,000 for fiscal year 1971, $10,000,000 for fiscal year 1972, and $20,000,000 for fiscal year 1973."

SEC. 5. The Urban Mass Transportation Act of 1964 is further amended by adding at the end thereof the following new section:

"GRANTS FOR RESEARCH AND DEMONSTRATION PROJECTS TO PROVIDE TRANSPORTATION FOR THE ELDERLY AND THE HANDICAPPED

"SEC. 16. (a) The Secretary is authorized to make grants to public or nonprofit private agencies, organizations, and institutions and to enter into contracts with agencies, organizations, institutions, and individuals—

"(1) to study the economic and service aspects of transportation for elderly persons, and physically or mentally handicapped persons, living in urban areas;

"(2) to conduct research and demonstration projects on portal-to-portal service and demand-actuated services;

"(3) to conduct research and demonstration projects concerning reduced fare transportation programs for elderly and physically and mentally handicapped persons;

"(4) to conduct research and demonstration projects to coordinate and develop better transportation services rendered by social service agencies;

"(5) to conduct research and demonstration projects regarding the feasibility of special transportation sub-systems for use by elderly and physically and mentally handicapped persons;

"(6) to conduct research and demonstration projects concerning other relevant problems affecting the mobility of elderly and physically and mentally handicapped persons.

"(b) There are authorized to be appropriated to carry out this section $3,000,000 for the fiscal year ending June 30, 1971, $5,000,000 for the fiscal year ending June 30, 1972, and $8,000,000 for the fiscal year ending June 30, 1972."

H.R. 19217

To amend the Act of August 12, 1968, to insure that facilities constructed with assistance under the Urban Mass Transportation Act of 1964 are designed and constructed to be accessible to the elderly and the handicapped

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968 (42 U.S.C. 4151), as amended, is amended—

(1) by striking out "or" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following:

"(5) to be constructed with financial assistance provided under the Urban Mass Transportation Act of 1964."

SEC. 2. (a) Such Act is further amended by redesignating sections 5 and 6 as sections 6 and 7, respectively, and by inserting after section 4 the following new section:

"SEC. 5. The Secretary of Transportation, in consultation with the Secretary of Health, Education, and Welfare, is authorized to prescribe such standards for the design, construction, and alteration of buildings, structures, and facilities which are provided with financial assistance under the Urban Mass Transportation Act of 1964 and are subject to this Act as may be necessary to insure that elderly and physically and mentally handicapped persons will have ready access to, and use of, such buildings."

(b) Section 7 of such Act (as redesignated by subsection (a) of this section) is amended by inserting immediately before "is authorized—" the following: "and the Secretary of Transportation with respect to standards issued under section 5 of this Act,".

NIXON RECESSION PERSISTS

(Mr. ALBERT (at the request of Mr. CHARLES H. WILSON) was given permission to extend his remarks at this point in the RECORD.)

Mr. ALBERT. Mr. Speaker, approximately a month ago, a minuscule rise of 0.2 percent in the Federal Reserve Board's index of industrial production was hailed by the administration's economic soothsayers as evidence positive that the nonexistent Republican recession was just about over and that the Nation was well on the road to revived economic expansion coupled with price stability.

The euphoric statements which hailed this happy event were to be found conspicuously on page one of every newspaper. The chorus of hosannas emanating from the executive branch dominated the airways.

Yesterday, the Federal Reserve Board announced that industrial production for August had declined, not a great decline it is true, rather one exactly equal to the July rise which had been hailed as a harbinger of returning prosperity by Republican spokesmen. Now the administration cannot have it both ways. If a rise of 0.2 percent in July is to be hailed as a definitive sign that the economy is moving upward, so a 0.2-percent decline in August can legitimately be regarded as bad news for the American people.

Mr. Speaker, in marked contrast to the widespread front-page publicity which featured July's industrial production increase, one must search diligently the financial section to find out about the August decline. The Wall Street Journal this morning informs us that—

President Nixon met with four of his economic advisers to discuss "economic matters."

We are further informed that Mr. Ziegler, the White House Press Secretary, stated that there was "nothing out of the ordinary on the agenda."

Mr. Speaker, cozy White House meetings called to discuss "nothing out of the ordinary," unfortunately are symbolic of the business as usual attitude characteristic of this Republican administration. The high level of prosperity and full employment inherited by it in January 1969 has been dissipated. Unemployment in August was up over that of July and is still rising while inflation continues to erode the value of the reduced paycheck being received by the American workingman.

Mr. Speaker, Presidential abdication of responsibility for full employment and price stability can no longer be tolerated. Once again, I urge the President to summon a national conference on inflation and unemployment. I likewise call upon him to terminate those economic policies which are sapping the strength of the American economy. Finally, he should utilize the authority which this Congress has granted him to establish credit controls as well as price and wage controls in order to stabilize the economy.

ALGERIA—INTERNATIONAL THIEF

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HALL. Mr. Speaker, I wish to call to the attention of the House, the very serious difficulties which have been created by the actions of the present Government of Algeria both toward our Government and against the American-owned properties in Algeria.

Three years ago, as a result of the Arab-Israel conflict of June 1967, the

Government of Algeria severed diplomatic relations with the United States and at the same time placed the American oil companies operating there under the control of Government custodians. In addition, currency controls were enacted which required the return to Algeria of all proceeds from the sale of crude oil extracted from Algeria. Although these steps initially were described as temporary war measures, the properties taken have not been returned to their owners and no compensation has been paid. Nor have diplomatic relations between the United States and Algeria been resumed.

The Government custodians appointed by Algeria to manage these properties have, without the consent of the American companies, exercised virtually unfettered control over the companies. I understand that they have paid disputed royalty and tax claims, and made all decisions with regard to the personnel of the companies affected. Thus, the American companies have been prevented from managing their own properties and from receiving any of the income generated by these properties.

This de facto expropriation by Algeria came only 5 years after Algeria formally confirmed and guaranteed the hydrocarbon concessions granted by France prior to Algeria's independence.

In 1962, as part of the Evian Agreements leading to Algeria's independence, France and Algeria executed the Declaration of Principles on the Cooperation for Development of the Wealth of the Sahara Sub-Soil under which Algeria confirmed the concessions made by France and agreed not to make "more onerous or to paralyze the exercise of rights" granted by France. By the very terms of this agreement, its protection extended to all holders of concessions "independently of any condition of nationality of the persons or of the location of the principal office" of the holders of the concessions.

In 1965, a new Franco-Algerian accord was executed under which the tax and royalty terms of existing concessions were modified and France made subsidies and loans to Algeria. This new accord, however, was not intended by France to apply to non-French companies operating in Algeria. This fact was specifically confirmed in the proceedings in the French assembly when the 1965 Franco-Algerian accord was accepted. France had satisfied its obligation to these companies as grantor of the concessions in 1962 when it required Algeria to confirm and guarantee all of the concessions granted by France, irrespective of the nationality of the holder. Thereafter, France negotiated solely on behalf of its own interests and those of French companies.

Algeria subsequently attempted to modify the concessions held by American companies along the same lines as the modifications of the French concessions included in the Franco-Algerian accord of 1965. Although the American companies entered into extensive negotiations with Algeria, the principal obstacle to agreement was the demand made by Algeria that the U.S. companies give very large subsidies and loans to Algeria. This the American companies were unable to accept.

The 1962 Evian declaration included provision for the settlement of disputes by binding international arbitration. These provisions were later confirmed in an arbitration accord executed in 1963 which expressly supplemented the 1962 declaration. Nevertheless, Algeria has categorically refused to participate in arbitration proceedings initiated by one American company seeking to settle outstanding differences.

Now Algeria wants to export liquefied natural gas to the United States and has contracted with American companies for this purpose. One of these companies has applied to the Federal Power Commission for permission to import liquefied natural gas from Algeria. FPC approval of such requests is, however, subject to the test of whether such importations would be in the public interest of the United States.

I am convinced that it would not be in the public interest to grant this application at this time. First, Algeria severed diplomatic relations with the United States and expropriated property owned by U.S. citizens in 1967. It now seeks to market in the United States the same kind of products which it has taken by illegal acts from U.S. companies. Why should Algeria be rewarded with access to our markets when she has not settled the claims of the American owners and refuses even to honor her commitment to arbitrate disputes? Second, natural gas is an important energy which is in great demand and short supply in the United States. The need, therefore, is for a long-term and reliable source. Granting the application would create a dependency for an essential energy on a country which has already demonstrated that it does not abide by its international agreements. It is better for the United States to look elsewhere for its natural gas supply than to turn to a source which may some day, at the peak of urgency and dependency, turn off the tap.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. McMILLAN, for the remainder of week, on account of official business.

Mr. BLATNIK (at the request of Mr. BOGGS), for today, on account of official business.

Mr. DOWDY (at the request of Mr. BOGGS), for the week of Monday, September 14, on account of illness.

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. DAVIS of Georgia, for 10 minutes, today.

Mr. RANDALL, for 30 minutes, today.

(The following Members (at the request of Mr. BIESTER) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. STEIGER of Wisconsin, for 30 minutes, today.

Mr. WYDLER, for 30 minutes, on September 16.

Mr. MILLER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. DAVIS of Georgia) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 15 minutes, today.

Mr. GONZALES, for 15 minutes, today.

Mr. RYAN, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GROSS and to include newspaper articles.

(The following Members (at the request of Mr. BIESTER) and to include extraneous matter:)

Mr. BUSH in two instances.
Mr. BROWN of Ohio.
Mr. HALL.
Mr. MIZE.
Mr. GROVER.
Mr. BRAY in two instances.
Mr. TAFT.
Mr. WYMAN in two instances.
Mr. HALPERN.
Mr. DON H. CLAUSEN.
Mr. ERLENBORN.
Mr. FREY.
Mr. HUTCHINSON.
Mr. DELLENBACK.
Mr. ROUSSELOT.
Mr. HUNT.
Mr. COLLIER in five instances.
Mr. ARENDS.
Mr. SCHMITZ.
Mr. COUGHLIN in two instances.
Mr. DERWINSKI in four instances.
Mr. SKUBITZ in three instances.
Mr. BIESTER.

(The following Members (at the request of Mr. DAVIS of Georgia) and to include extraneous matter:)

Mr. BOLLING.
Mr. GAYDOS in six instances.
Mr. DIGGS in four instances.
Mr. LOWENSTEIN in five instances.
Mr. DANIELS of New Jersey in three instances.
Mr. OTTINGER in three instances.
Mr. LONG of Maryland in 10 instances.
Mr. RODINO in four instances.
Mr. BINGHAM in two instances.
Mr. GONZALEZ in two instances.
Mr. WOLFF in four instances.
Mr. WILLIAM D. FORD in two instances.
Mr. DONOHUE in two instances.
Mr. ASHLEY.
Mr. ANDERSON of California.
Mr. O'HARA in two instances.
Mr. MAHON in two instances.
Mr. HELSTOSKI in two instances.
Mr. DORN.
Mr. MIKVA.
Mr. RYAN in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3418. An act to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine, and to alleviate the effects of malnutrition, and to provide for the establishment of a National Information and Resource Center for the Handicapped; to the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 203. An act to amend the Act of June 13, 1962 (76 Stat. 96), with respect to the Navajo Indian irrigation project;

S. 434. An act to authorize the Riverton extension unit, Missouri River Basin project, to include therein the entire Riverton reclamation project, and for other purposes;

S. 3617. An act to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development; and

S. 3838. An act to prevent the unauthorized manufacture and use of the character "Johnny Horizon", and for other purposes.

ADJOURNMENT

Mr. STRATTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 23 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 16, 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:

2373. A communication from the President of the United States, adjusting the statutory limitation on fiscal year 1971 budget outlays, pursuant to title V of the Second Supplemental Appropriations Act, 1970 (H. Doc. No. 91-387); to the Committee on Appropriations and ordered to be printed.

2374. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report for the period ended July 31, 1970, on the operation of section 501 of the Second Supplemental Appropriations Act, 1970, establishing a limitation on budget outlays (H. Doc. No. 91-386); to the Committee on Appropriations and ordered to be printed.

2375. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting a copy of the statistical supplement to the stockpile report to Congress for the period ending June 30, 1970, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

2376. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the administration of the Health Professions Educational Assistance Act and its subsequent amendments, pursuant to title I, part D, of the Health Manpower Act of 1968; to the Committee on Interstate and Foreign Commerce.

2377. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the administration of title VIII (Nurse Training) of the Public Health Service Act, pursuant to section 232 of the Health Manpower Act of 1968; to the Committee on Interstate and Foreign Commerce.

2378. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the act creating the St. Lawrence Seaway Development Corporation to terminate the accrual and payment of interest on the obligations of the Corporation, and for other purposes; to the Committee on Public Works.

2379. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for the protection of persons and property aboard U.S. air carrier aircraft, and for other purposes; to the Committee on Ways and Means.

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. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 15911. A bill to amend title 38 of the United States Code to increase the rates and income limitations relating to payment of pension and parents' dependency and indemnity compensation, and for other purposes; with an amendment (Rept. No. 91-1448). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 16710. A bill to amend chapter 37 of title 38, United States Code, to authorize guaranteed and direct loans for mobile homes if used as permanent dwellings, to authorize the Administrator to pay certain closing costs for, and interest on, certain loans guaranteed and made under such chapter, to remove the time limitation on the use of entitlement to benefits under such chapter, and for other purposes; with amendments (Rept. No. 91-1449). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 18448. A bill to provide mortgage protection life insurance for service-connected disabled veterans who have received grants for specially adapted housing; without amendment, Rept. No. 91-1450). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 18731. A bill to amend the act of July 25, 1956, relating to the American Battle Monuments Commission; with amendments (Rept. No. 91-1451). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 13301. A bill to provide for the adjustment by the Administrator of Veterans' Affairs of the legislative jurisdiction over lands belonging to the United States which are under his supervision and control; without amendment (Rept. No. 91-1452). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 13519. A bill to provide for the conveyance of certain real property of the United States to the Yankton Sioux Tribe; with an amendment (Rept. No. 91-1453). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 16811. A bill to authorize the Secretary of the Interior to declare that the United States holds in trust for the Eastern Band of Cherokee Indians of North Carolina certain lands on the Cherokee Indian Reservation heretofore used for school or other purposes; with an amendment (Rept. No. 91-1454). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN:

H.R. 19188. A bill to authorize the National Science Foundation to conduct research and educational programs to prepare the country for conversion from defense to civilian, socially oriented research and development activities, and for other purposes; to the Committee on Science and Astronautics.

By Mr. GIAIMO (for himself, Mr. ANDERSON of California, Mr. BROWN of California, Mr. BURTON of California, Mr. EILBERG, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. HORTON, Mr. HOSMER, Mr. MAILLIARD, Mr. MATSUNAGA, Mr. MCFALL, Mr. MIKVA, Mr. MOORHEAD, Mr. NIX, Mr. OBEY, Mr. OTTINGER, Mr. REES, Mr. ROE, Mr. ROONEY of Pennsylvania, Mr. SIKES, Mr. TIERNAN, Mr. TUNNEY, Mr. VAN DEERLIN, and Mr. CHARLES H. WILSON):

H.R. 19189. A bill to authorize the National Science Foundation to conduct research and educational programs to prepare the country for conversion from defense to civilian, socially oriented research and development activities, and for other purposes; to the Committee on Science and Astronautics.

By Mr. GIAIMO (for himself, Mr. BEALL of Maryland, Mr. BINGHAM, Mr. BOLAND, Mr. BRASCO, Mr. DONOHUE, Mr. DULSKI, Mr. EDWARDS of California, Mr. GUBSER, Mr. HELSTOSKI, Mr. HICKS, Mr. HOWARD, Mr. LOWENSTEIN, Mr. MURPHY of New York, Mr. OLSEN, Mr. PIKE, Mr. ROSENTHAL, Mr. SHRIVER, Mr. SYMINGTON, Mr. VANIK, and Mr. WOLFF):

H.R. 19190. A bill to authorize the National Science Foundation to conduct research and educational programs to prepare the country for conversion from defense to civilian, socially oriented research and development activities, and for other purposes; to the Committee on Science and Astronautics.

By Mr. GONZALEZ:

H.R. 19191. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes; to the Committee on Education and Labor.

By Mr. MCMILLAN:

H.R. 19192. A bill to provide additional revenue for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MINISH:

H.R. 19193. A bill to create a health security program; to the Committee on Ways and Means.

By Mr. MOSS (for himself and Mr. DINGELL):

H.R. 19194. A bill to establish a Department of Natural Resources and to transfer certain agencies to and from such Department; to the Committee on Government Operations.

By Mr. MOSS (for himself, Mr. DINGELL, Mr. BLATNIK, and Mr. REUSS):

H.R. 19195. A bill to establish a Department of Environmental Quality, and for other purposes; to the Committee on Government Operations.

By Mr. OTTINGER:

H.R. 19196. A bill to promote the greater availability of motor vehicle insurance in interstate commerce under more efficient and beneficial marketing conditions; to the Committee on Interstate and Foreign Commerce.

H.R. 19197. A bill to regulate interstate commerce by requiring certain insurance as a condition precedent to using the public streets, roads, and highways, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 19198. A bill to amend the Internal Revenue Code of 1954, and for other purposes; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself, Mr. BRADEMAS, and Mr. MCCARTHY):

H.R. 19199. A bill to amend the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. STEIGER of Wisconsin (for himself and Mr. SIKES):

H.R. 19200. A bill to assure safe and healthful working conditions for working men and women; by providing the means and procedures for establishing and enforcing mandatory safety and health standards; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes; to the Committee on Education and Labor.

By Mr. PATTEN:

H.R. 19201. A bill to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes; to the Committee on Armed Services.

By Mr. BURTON of Utah:

H.R. 19202. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. CORBETT:

H.R. 19203. A bill to permit immediate retirement of certain Federal employees; to the Committee on Post Office and Civil Service.

By Mr. FISH:

H.R. 19204. A bill to provide for Government guarantee of private loans to certain motorbus operators for purchase of modern motorbuses and equipment, to foster the development and use of more modern and safer operating equipment by such carriers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FULTON of Pennsylvania:

H.R. 19205. A bill to amend title VII of the Housing and Urban Development Act of 1965 to authorize financial assistance for the development and improvement of street lighting facilities; to the Committee on Banking and Currency.

H.R. 19206. A bill to prohibit the intimidation, coercion, or annoyance of a person officiating at or attending a religious service or ceremony in a church and to make such acts a Federal offense; to the Committee on the Judiciary.

H.R. 19207. A bill to provide for a training program for organized crime prosecutors, an annual conference of Federal, State, and local officials in the field of organized crime, an annual report by the Attorney General on organized crime, and for other purposes; to the Committee on the Judiciary.

H.R. 19208. A bill to provide for the protection of children against physical injury caused or threatened by those who are responsible for their care; to the Commttee on Ways and Means.

By Mr. GRAY:

H.R. 19209. A bill to amend title 18 of the United States Code to provide for better control of interstate traffic in explosives; to the Committee on the Judiciary.

H.R. 19210. A bill to regulate the importation, manufacture, distribution, storage and possession of explosives, blasting agents, and detonators, and for other purposes; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 19211. A bill to assist in the provisions of housing for the elderly, and for other purposes; to the Committee on Banking and Currency.

H.R. 19212. A bill to provide early educational opportunities for all preschool children, and to encourage and assist in the formation of local preschool districts by residents of urban and rural areas; to the Committee on Education and Labor.

H.R. 19213. A bill to amend the Railroad Retirement Act of 1937 to provide that the amount of the annuity payable thereunder to a widow shall not be less than the amount of the annuity which would have been payable to her deceased husband if he were living and otherwise qualified to receive an employee's annuity thereunder; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA:

H.R. 19214. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

By Mr. POFF:

H.R. 19215. A bill relating to the control of organized crime in the United States; to the Committee on the Judiciary.

By Mr. RYAN:

H.R. 19216. A bill to amend the Urban Mass Transportation Act of 1964 to provide assistance in the design and construction of transportation services and facilities meeting the needs of the elderly and the handicapped; to the Committee on Banking and Currency.

H.R. 19217. A bill to amend the act of August 12, 1968, to insure that facilities constructed with assistance under the Urban Mass Transportation Act of 1964 are designed and constructed to be accessible to the elderly and the handicapped; to the Committee on Public Works.

By Mr. RYAN (for himself and Mr. TIERNAN):

H.R. 19218. A bill to amend the Truth in Lending Act to protect consumers against careless and erroneous billing, and to require that statements under open-end credit plans be mailed in time to permit payment prior to the imposition of finance charges; to the Committee on Banking and Currency.

By Mr. FULTON of Pennsylvania:

H.J. Res. 1368. Joint resolution proposing an amendment to the Constitution of the United States to confer upon Congress the power to enact reasonable laws defining obscenity and regulating the publication, both spoken and written, of obscene material; to the Committee on the Judiciary.

By Mr. MOSS (for himself and Mr. DINGELL):

H. Res. 1209. Resolution to disapprove Reorganization Plan No. 3; to the Committee on Government Operations.

H. Res. 1210. Resolution to disapprove Reorganization Plan No. 4; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 19219. A bill for the relief of Elvia R. Benavides; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.R. 19220. A bill for the relief of Zoi Locopolou; to the Committee on the Judiciary.

By Mr. CASEY:

H.R. 19221. A bill for the relief of Agustin Pinera; to the Committee on the Judiciary.

H.R. 19222. A bill for the relief of Dr. David G. Simons, lieutenant colonel, U.S. Air Force (retired); to the Committee on the Judiciary.

By Mr. HANNA:

H.R. 19223. A bill for the relief of Kyung Bong Kim, his wife, Bok Soon Kim, and their children, Sun Hee Kim, Yong Bac Kim, Mi Hee Kim, and Young Bal Kim; to the Committee on the Judiciary.

By Mrs. MAY:

H.R. 19224. A bill for the relief of Merton A. Searle and George W. Bowers; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

CLEAN AIR CARAVAN TESTS AUTO POLLUTION CAUSES

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 14, 1970

Mr. PUCINSKI. Mr. Speaker, the Sun Electric Corp., located in my district, has successfully developed the first practical instrument for the measurement of carbon monoxide and hydrocarbons generated by automobiles.

For the first time, State and Federal agencies have available to them a fast, accurate, reliable means of testing vehicles for compliance with emission standards. The automobile industry now has available to it a means of testing vehicles as they come off the production lines.

Auto maintenance shops now have available to them a means of double checking their work to make certain that they have properly serviced an auto to meet emission standards.

On June 15, Atlantic Richfield launched its "Clean Air Caravan" program in Los Angeles. This involved nine panel trucks, each equipped with two Sun model 910 infrared exhaust emission testers. As a public service, the motorists of Los Angeles have been given free tests on their cars to determine the amount of pollution they are generating, and to receive recommendations as to what can be done by the motorists to improve the situation. The response to these tests has been very encouraging.

The auto manufacturers have been making great strides to improve their engines, and the oil manufacturers are now marketing lead-free gasoline. It is now up to the motorist to become conscious of his social obligations to do his part in cutting down on air pollution.

It has been proven that if a gasoline engine is properly tuned and adjusted, little if any undesirable pollutants are emitted. Periodic testing of vehicles with an infrared-type tester can warn vehicle owners that his vehicle is emitting un-