power we could obtain much more inexpensively. They would have us build a power project more than 400 miles from the people it is supposed to serve while ignoring the fact that more than one-fifth of its cost would be for transmission equipment. They would have us despoil thousands of acres of one of the few remaining virgin forests in the Northeastern United States. Yet, it we dare to oppose this wasteful scheme, we are tied to some "plot" by the private power companies. That is Myth No. 5. Would Dickey-Lincoln supporters have us believe that the many conservation organizations who oppose Dickey-Lincoln are "tools of the power companies"?

The whole case for Dickey-Lincoln is absurd, Mr. Speaker. What is more, it is absurd to think of spending $500 million for this project when the priorities of this Nation so desperately demand that we apply our resources to the great social problems of our times. In light of this, I am sure that the majority of the New England delegation and the overwhelming majority of my colleagues will join me in continued opposition to the Dickey-Lincoln project.

PERSONAL FINANCIAL REPORT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1970

Mr. KASTENMEIER. Mr. Speaker, today, I am placing in the RECORD a statement of my personal financial condition. This follows a practice I adopted in 1963 and repeated in each succeeding year. In doing this, I would like to reiterate briefly the comments I made in the past to the House and in reports to constituents of Wisconsin's Second Congressional District.

Members of Congress and holders of high elective office in general should make periodic public disclosures of personal finances as a matter of course. Such reports of outside income and interests are needed to provide the public with information that will enable them to assess whether their Representative's personal holdings, in any way, have affected the performance of his public trust.

Presently, House Members are required to make a limited financial disclosure report. Last year marked the initial effort at mandatory public disclosure. While part of the report is made available for public inspection, a more detailed section remains confidential in a sealed envelope to be held from public scrutiny and can be opened only by a majority vote of the House Committee on Standards of Official Conduct.

If conflicts of interest by elected officials are to be avoided, however, and the integrity of Congress upheld, both Houses of the Congress must adopt a standing rule providing for a public report, made periodically, of all outside financial interests and income for all Members.

Mr. Speaker, a report of my personal financial condition follows:

Statement of Financial Condition, January 1, 1970

Cash on account with the Sergeant at Arms Bank, House of Representatives	$2,074.77
Riggs National Bank of Washington, D.C., checking account	7.10
Securities: cash proceeds, sale of stock	2,360.21
Residential real estate:	
House, Arlington, Va., purchase price	28,000.00
Less mortgage	15,863.00
Equity	12,137.00
Lot	14,750.00
House construction in process, subject to mortgage, net value, Jan. 1, 1970	17,120.00
Household goods and miscellaneous personalty	4,800.00
Miscellaneous assets: Deposits with U.S. Civil Service retirement fund through Jan. 1, 1970, available only in accordance with applicable laws and regulations	22,143.44
Cash surrender value of life insurance policies:	
On the life of Robert W.	None
On the life of Dorothy C.	544.00
Automobiles:	
1963 Oldsmobile	675.00
1965 Chevrolet	775.00
Total assets	77,386.52
Liabilities: National Bank of Washington note	8,400.00
Net	68,986.52
Income for calendar year 1969, excluding congressional salary and expenses: Interest	54.95
Travel, per diem and speaking, honorariums and travel	250.75

HOUSE OF REPRESENTATIVES—*Monday, October 12, 1970*

The House met at 12 o'clock noon.

Father William G. Blough, director of insurance for the Pittsburgh diocese, Pittsburgh, Pa., offered the following prayer:

Let us pray: Our gracious and loving heavenly Father, Thou who art the Creator of Heaven and earth, the giver of every good and perfect gift, the sovereign Saviour of our soul, we come to Thee in prayer, believing nothing too hard for Thee and that with Thee all things are possible. Lord God of our fathers, be favorable unto our land. Give us perfect times and fruitful seasons; prosper our industries and defend us from all enemies. Grant to our President, this Congress, and all in positions of leadership and authority, the wisdom and the strength to know and to do Thy will. Fill them with love of truth and righteousness and make them ever mindful of their calling to serve the people in Thy fear. Enrich our land, O God, with liberty and order, unity and peace, and inspire the hearts of all people to follow after justice.

Grant that all who call upon Thy holy name may be of one heart and of one soul, united in one holy bond of truth and peace, of faith and love, and may with one mind and one voice glorify Thee. For Thine is the kingdom, and the power, and the glory, forever. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, October 8, 1970, was read and approved.

MESSAGE FROM THE SENATE

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

H.R. 9654. An act to authorize subsistence, without charge, to certain air evacuation patients;

H.R. 10317. An act to adjust the date of rank of commissioned officers of the Marine Corps;

H.R. 11876. An act to amend section 1482 of title 10, United States Code, to authorize the payment of certain expenses incident to the death of members of the Armed Forces in which no remains are recovered;

H.R. 13519. An act to declare that the United States holds 19.57 acres of land, more or less, in trust for the Yankton Sioux Tribe;

H.R. 14322. An act to amend section 405 of title 37, United States Code, relating to cost-of-living allowances for members of the uniformed services on duty outside the United States or in Hawaii or Alaska;

H.R. 15112. An act to repeal several obsolete sections of title 10, United States Code, and section 208 of title 37, United States Code;

H.R. 15624. An act to convey certain federally owned land to the Cherokee Tribe of Oklahoma;

H.R. 16732. An act to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments of officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status; and

H.R. 16997. An act for the relief of Colie Lance Johnson, Jr.

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

H.R. 12475. An act to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act, and for other purposes, and

H.R. 17825. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1708. An act to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes, and

S. 3528. An act for the relief of Johnny Mason, Jr. (Johnny Trinidad Mason, Jr.)

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R.

15073) entitled "An act to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in United States currency be reported to the Department of the Treasury, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3619) entitled "An act to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. SPONG, Mr. EAGLETON, Mr. DOLE, and Mr. GURNEY to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 17825) entitled "An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCLELLAN, Mr. ERVIN, Mr. HART, Mr. EASTLAND, Mr. KENNEDY, Mr. BYRD of West Virginia, Mr. HRUSKA, Mr. SCOTT, Mr. THURMOND, and Mr. COOK to be the conferees on the part of the Senate.

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

S. 233. An act to increase the authorization for the appropriation of funds to complete the International Peace Garden, N. Dak.;

S. 642. An act to make it a Federal offense to assassinate, kidnap, or assault a Member of Congress or a Member-of-Congress-elect;

S. 988. An act to amend the Railroad Retirement Act of 1937 so as to permit certain individuals retiring thereunder to receive their annuities while serving as an elected public official;

S. 2896. An act to prohibit unauthorized entry into any building or the grounds thereof where the President is or may be temporarily residing, and for other purposes;

S. 3132. An act to amend section 3731 of title 18, United States Code, relating to appeals by the United States in criminal cases;

S. 3650. An act to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto and for other purposes;

S. 4432. An act to revise and restate certain functions and duties of the Comptroller General of the United States; to change the name of the General Acounting Office to "Office of the Comptroller General of the United States," and for other purposes;

S.J. Res. 165. Joint resolution granting the consent of the Congress to an agreement between the State of Florida and the State of Georgia establishing a boundary between such States; and

S.J. Res. 211. Joint resolution to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission.

MILITARY CONSTRUCTION AUTHORIZATION, FISCAL YEAR 1971

Mr. RIVERS submitted the following conference report and statement on the bill (H.R. 17604) to authorize certain construction at military installations, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 91-1593)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17604) to authorize certain construction at military installations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES CONTINENTAL ARMY COMMAND

(First Army)

Fort Belvoir, Virginia, $4,959,000.
Carlisle Barracks, Pennsylvania, $503,000.
Fort Dix, New Jersey, $11,671,000.
Fort Eustis, Virginia, $260,000.
Fort Hamilton, New York, $575,000.
Fort Knox, Kentucky, $8,249,000.
Fort Lee, Virginia, $98,000.
Fort George G. Meade, Maryland, $257,000.

(Third army)

Fort Benning, Georgia, $2,855,000.
Fort Campbell, Kentucky, $497,000.
Fort Gordon, Georgia, $31,447,000.
Fort Jackson, South Carolina, $506,000.
Fort Rucker, Alabama, $1,435,000.
Fort Stewart, Georgia, $1,534,000.

(Fourth army)

Fort Bliss, Texas, $809,000.
Fort Sam Houston, Texas, $15,496,000.
Fort Sill, Oklahoma, $581,000.

(Fifth army)

Fort Carson, Colorado, $623,000.
Fort Benjamin Harrison, Indiana, $523,000.
Fort Riley, Kansas, $7,515,000.
Fort Leonard Wood, Missouri, $1,946,000.

(Sixth army)

Hunter-Liggett Military Reservation, California, $2,915,000.
Fort Lewis, Washington, $3,757,000.
Presidio of San Francisco, California, Fort Ord, California, $3,497,000.
Presidio of Monterey, California, $2,635,000.
$7,004,000.

(Military District of Washington)

Fort Myer, Virginia, $525,000.

UNITED STATES ARMY MATERIEL COMMAND

Aeronautical Maintenance Center, Texas, $3,738,000.
Alabama Army Ammunition Plant, Alabama, $117,000.
Anniston Army Depot, Alabama, $915,000.
Atlanta Army Depot, Georgia, $117,000.
Badger Army Ammunition Plant, Wisconsin, $1,604,000.
Burlington Army Ammunition Plant, New Jersey, $384,000.
Charleston Army Depot, South Carolina, $67,000.
Cornhusker Army Ammunition Plant, Nebraska, $650,000.
Harry Diamond Laboratory, Maryland, $12,898,000.
Iowa Army Ammunition Plant, Iowa, $300,000.
Letterkenny Army Depot, Pennsylvania, $410,000.
Fort Monmouth, New Jersey, $2,757,000.
New Cumberland Army Depot, Pennsylvania, $99,000.
Picatinny Arsenal, New Jersey, $752,000.
Radford Army Ammunition Plant, Virginia, $2,333,000.
Ridgewood Army Weapons Plant, Ohio, $120,000.
Rock Island Arsenal, Illinois, $2,750,000.
Sierra Army Depot, California, $369,000.
Tobyhanna Army Depot, Pennsylvania, $115,000.
Tooele Army Depot, Utah, $249,000.
Watervliet Arsenal, New York, $1,362,000.
White Sands Missile Range, New Mexico, $2,261,000.
Yuma Proving Ground, Arizona, $1,798,000.

UNITED STATES ARMY SECURITY AGENCY

Vint Hill Farms, Virginia, $475,000.

UNITED STATES ARMY STRATEGIC COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $2,383,000.
Fort Ritchie, Maryland, $876,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $8,519,000.

ARMY MEDICAL DEPARTMENT

Walter Reed Army Medical Center, District of Columbia, $10,216,000.

CORPS OF ENGINEERS

Topographic Command, Missouri, $558,000.

MILITARY TRAFFIC MANAGEMENT AND TERMINAL SERVICE

Military Ocean Terminal, Bayonne, New Jersey, $3,440,000.
Oakland Army Base, California, $1,458,000.

UNITED STATES ARMY, HAWAII

Schofield Barracks, $2,955,000.

OUTSIDE THE UNITED STATES

UNITED STATES ARMY, PACIFIC

Korea, Various Locations, $6,190,000.
Vietnam, Various Locations, $25,000,000.
Kwajalein Missile Range, $560,000.

UNITED STATES ARMY SECURITY AGENCY

Various Locations, $2,535,000.

UNITED STATES ARMY, EUROPE

Germany, Various Locations, $7,412,000.

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations, including international military headquarters, for the collective defense of the North Atlantic Treaty Area, $41,500,000: *Provided*, That, within thirty days after the end of each quarter, the Secretary of the Army shall furnish to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a description of obligations incurred as the United States share of such multilateral programs.

SEC. 102. The Secretary of the Army may establish or develop classified military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $2,000,000.

SEC. 103. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with constructions made necessary by changes in Army missions and responsibilities which have been occasioned by: (a) unforeseen security considerations, (b) new weapons developments, (c) new and unforeseen research and development requirements, or (d) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including

land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000: *Provided*, That the Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire as of September 30, 1971, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

SEC. 104. The Secretary of the Army is authorized to acquire, under such terms as he deems fair and reasonable, and at the present fair market value, State-owned and privately-owned land and estates in land and improvements thereon located within the boundaries of the White Sands Missile Range, New Mexico.

SEC. 105. The Secretary of the Army is authorized to acquire out of appropriations which may be available for Civil Defense in the fiscal year 1971 Independent Offices Appropriations Act, under such terms as he deems appropriate, land or interests in land in approximately one hundred and sixty acres in the vicinity of Mount Joy, Pennsylvania, as he considers necessary for the construction of a prototype Decision Information Distribution System facility to augment and upgrade the area's Civil Defense warning capability.

SEC. 106. (a) Public Law 88–174, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101, as follows:

With respect to "Aberdeen Proving Ground, Maryland", strike out "$4,065,000" and insert in place thereof "$4,326,000".

(b) Public Law 88–174, as amended, is amended by striking out in clause (1) of section 602 "$155,919,000" and "$200,788,000" and inserting in place thereof "$156,180,000" and "$201,049,000", respectively.

SEC. 107. (a) Public Law 88–390, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101, as follows:

With respect to "Edgewood Arsenal, Maryland," strike out "$6,843,000" and insert in place thereof "$7,405,000".

(b) Public Law 88–390, as amended, is amended by striking out in clause (1) of section 602 "$256,536,000" and "$307,597,000" and inserting in place thereof "$257,098,000" and "$308,159,000", respectively.

SEC. 108. (a) Public Law 89–188, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101, as follows:

(1) With respect to "Aberdeen Proving Ground, Maryland", strike out "$3,419,000" and insert in place thereof "$3,874,000".

(2) With respect to "Rock Island Arsenal, Illinois", strike out "$826,000" and insert in place thereof "$835,000".

(b) Public Law 89–188, as amended, is amended by striking out in clause (1) of section 602 "$261,135,000" and "$317,996,000" and inserting in place thereof "$261,599,000" and "$318,460,000", respectively.

SEC. 109. (a) Public Law 89–568, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101, as follows:

With respect to "Fort Jackson, South Carolina", strike out "$5,565,000" and insert in place thereof "$5,928,000".

(b) Public Law 89–568, as amended, is amended by striking out in clause (1) of section 602 "$59,352,000" and "$134,067,000" and inserting in place thereof "$59,715,000" and "$134,430,000", respectively.

SEC. 110. (a) Public Law 90–110, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101, as follows:

(1) With respect to Fort Lee, Virginia, strike out "$1,727,000" and insert in place thereof "$2,575,000".

(2) With respect to United States Military Academy, West Point, New York, strike out "$15,495,000" and insert in place thereof "$18,077,000".

(b) Public Law 90–110, as amended, is amended by striking out in clause (1) of section 802 "$284,625,000" and "$388,018,000", and inserting in place thereof "$288,055,000" and "$391,448,000", respectively.

SEC. 111. (a) Public Law 90–408, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 101, as follows:

(1) With respect to "Fort Benjamin Harrison, Indiana", strike out "$4,590,000" and insert in place thereof "$7,200,000".

(2) With respect to "Pine Bluff Arsenal, Arkansas", strike out "$169,000" and insert in place thereof "$253,000".

(b) Public Law 90–408, as amended, is amended by striking out in clause (1) of Section 802 "$363,805,000" and $450,957,000" and inserting in place thereof "$366,499,000" and "$453,651,000", respectively.

SEC. 112. (a) Public Law 91–142 is amended under the heading "INSIDE THE UNITED STATES," in section 101, as follows:

With respect to "United States Military Academy, West Point, New York", strike out "$17,421,000" and insert in place thereof "$28,159,000".

(b) Public Law 91–142 is amended by striking out in clause (1) of section 702 "$175,853,000" and "$279,988,000", and inserting in place thereof "$186,591,000" and "$290,726,000", respectively.

TITLE II

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

FIRST NAVAL DISTRICT

Naval Shipyard, Portsmouth, New Hampshire, $5,685,000.

Naval Station, Newport, Rhode Island, $2,409,000.

Navy Public Works Center, Newport, Rhode Island, $644,000.

Naval War College, Newport, Rhode Island, $4,390,000.

THIRD NAVAL DISTRICT

Naval Submarine Base, New London, Connecticut, $6,652,000.

FOURTH NAVAL DISTRICT

Naval Air Propulsion Test Center, Trenton, New Jersey, $356,000.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $697,000.

Naval Station, Philadelphia, Pennsylvania, $4,342,000.

Naval Publications and Forms Center, Philadelphia, Pennsylvania, $250,000.

NAVAL DISTRICT WASHINGTON

Bolling/Anacostia, Washington, District of Columbia, $16,200,000.

Naval Air Facility, Washington, District of Columbia, $57,000.

Naval Research Laboratory, Washington, District of Columbia, $2,628,000.

Naval Station, Washington, District of Columbia, $573,000.

Naval Academy, Annapolis, Maryland, $10,000,000.

Naval Ordnance Station, Indian Head, Maryland, $159,000.

Naval Weapons Laboratory, Dahlgren, Virginia, $530,000.

FIFTH NAVAL DISTRICT

Naval Amphibious Base, Little Creek, Virginia, $4,408,000.

Naval Station, Norfolk, Virginia, $1,120,000.

Naval Air Rework Facility, Norfolk, Virginia, $2,070,000.

Naval Shipyard, Norfolk, Virginia, $5,216,000.

Naval Supply Center, Norfolk, Virginia, $55,000.

Naval Air Station, Oceana, Virginia, $1,886,000.

Naval Weapons Station, Yorktown, Virginia, $1,221,000.

SIXTH NAVAL DISTRICT

Naval Air Station, Cecil Field, Florida $470,000.

Naval Air Rework Facility, Jacksonville, Florida, $3,869,000.

Naval Station, Mayport, Florida, $519,000.

Naval Training Center, Orlando, Florida, $11,327,000.

Naval Training Device Center, Orlando, Florida, $1,665,000.

Naval Air Station, Pensacola, Florida, $8,444,000.

Naval Air Station, Whiting Field, Milton, Florida, $420,000.

Naval Air Station, Saufley Field, Florida, $457,000.

Naval Air Station, Meridian, Mississippi, $2,782,000.

Naval Construction Battalion Center, Gulfport, Mississippi, $1,721,000.

Naval Shipyard, Charleston, South Carolina, $6,884,000.

Naval Station, Charleston, South Carolina, $2,233,000.

Naval Weapons Station, Charleston, South Carolina, $5,180,000.

EIGHTH NAVAL DISTRICT

Naval Air Station, Corpus Christi, Texas, $2,957,000.

Naval Inactive Ship Maintenance Facility, Orange, Texas, $146,000.

NINTH NAVAL DISTRICT

Navy Public Works Center, Great Lakes, Illinois, $12,525,000.

Naval Training Center, Great Lakes, Illinois, $3,537,000.

ELEVENTH NAVAL DISTRICT

Naval Observatory Flagstaff Station, Flagstaff, Arizona, $286,000.

Naval Weapons Center, China Lake, California, $1,585,000.

Naval Dental Clinic, Long Beach, California, $1,163,000.

Naval Shipyard, Long Beach, California, $8,371,000.

Pacific Missile Range, Point Mugu, California, $2,929,000.

Naval Construction Battalion Center, Port Hueneme, California, $3,000,000.

Naval Weapons Station, Seal Beach, California, $405,000.

Naval Air Station, Miramar, California, $3,100,000.

Naval Air Station, North Island, San Diego, California, $1,122,000.

Naval Station, San Diego, California, $1,909,000.

TWELFTH NAVAL DISTRICT

Naval Air Station, Lemoore, California, $3,973,000.

Naval Air Station, Alameda, California, $3,023,000.

Naval Weapons Station, Concord, California, $455,000.

Naval Air Station, Moffett Field, California, $48,000.

Naval Supply Center, Oakland, California, $195,000.

Naval Shipyard, Hunters Point, San Francisco, California, $5,058,000.

Naval Shipyard, Mare Island, Vallejo, California, $4,246,000.

Naval Auxiliary Air Station, Fallon, Nevada, $2,222,000.

Naval Ammunition Depot, Hawthorne, Nevada, $495,000.

THIRTEENTH NAVAL DISTRICT

Naval Ammunition Depot, Bangor, Washington, $70,000.

Naval Radio Station T, Jim Creek, Oso, Washington, $159,000.

Naval Shipyard, Puget Sound, Bremerton, Washington, $4,914,000.

Naval Air Station, Whidbey Island, Washington, $2,541,000.

FOURTEENTH NAVAL DISTRICT

Fleet Intelligence Center, Pacific, Pearl Harbor, Oahu, Hawaii, $4,579,000.

Naval Submarine Base, Pearl Harbor, Oahu, Hawaii, $4,123,000.

Navy Public Works Center, Pearl Harbor, Oahu, Hawaii, $220,000.

Naval Dental Clinic, Pearl Harbor, Oahu, Hawaii, $1,752,000.

Naval Ammunition Depot, Oahu, Hawaii, $529,000.

Naval Air Station, Barbers Point, Oahu, Hawaii, $2,480,000.

OMEGA Navigation Station, Haiku, Oahu, Hawaii, $3,162,000.

Naval Communication Station, Honolulu, Wahiawa, Oahu, Hawaii, $200,000.

SEVENTEENTH NAVAL DISTRICT

Naval Station, Adak, Alaska, $4,781,000.

Naval Arctic Research Laboratory, Barrow, Alaska, $2,638,000.

MARINE CORPS FACILITIES

Marine Barracks, Washington, District of Columbia, including special relocation costs, $700,000.

Marine Corps Development and Education Command, Quantico, Virginia, $5,283,000.

Marine Corps Base, Camp Lejeune, North Carolina, $1,384,000.

Marine Corps Air Station, Cherry Point, North Carolina, $6,764,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $112,000.

Marine Corps Air Station, Yuma, Arizona, $332,000.

Marine Corps Supply Center, Barstow, California, $75,000.

Marine Corps Air Station, El Toro, California, $5,344,000.

Marine Corps Air Station, Santa Ana, California, $1,050,000.

Marine Corps Auxiliary Landing Field, Camp Pendleton, California, $1,570,000.

Marine Corps Base, Camp Pendleton, California, $9,294,000.

Marine Corps Base, Twentynine Palms, California, $1,605,000.

OUTSIDE THE UNITED STATES

10TH NAVAL DISTRICT

Naval Station, Roosevelt Roads, Puerto Rico, $343,000.

Naval Station, San Juan, Puerto Rico, $134,000.

ATLANTIC OCEAN AREA

Naval Station, Keflavik, Iceland, $10,613,000.

Naval Facility, Argentia, Newfoundland, $1,580,000.

EUROPEAN AREA

Naval Air Facility, Sigonella, Sicily, Italy, $582,000.

Naval Radio Station, Thurso, Scotland, $282,000.

PACIFIC OCEAN AREA

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $747,000.

Naval Magazine, Guam, Mariana Islands, $3,287,000.

Naval Station, Guam, Mariana Islands, $1,464,000.

Naval Ship Repair Facility, Guam, Mariana Islands, $740,000.

Navy Public Works Center, Guam, Mariana Islands, $1,363,000.

Navy Public Works Center, Subic Bay, Republic of the Philippines, $859,000.

SEC. 202. The Secretary of the Navy may establish or develop classified Navy installations and facilities by acquiring, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the amount of $974,000.

SEC. 203. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by: (a) unforeseen security considerations, (b) new weapons developments, (c) new and unforeseen research and development requirements, or (d) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000: *Provided*, That the Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire as of September 30, 1971, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

SEC. 204. The Secretary of the Navy is authorized to acquire, under such terms as he deems appropriate, privately owned land or interests in land (including easements) contiguous to the south approach to Runway 34R of the Marine Corps Air Station, El Toro, California, as he considers necessary for safe and efficient operation of that station. Acquisition of such lands or interests in land shall be effected by the exchange of such excess land or interests in land of approximately equal value as the Secretary of Defense may determine to be available for the purpose. If the fair market value of the land or interests in land to be acquired is less than the fair market value of the Government property to be exchanged, the amount of such deficiency shall be paid to the Government.

SEC. 205. The Secretary of the Navy is authorized to acquire, under such terms as he deems appropriate, land or interests in land (including easements) in approximately four hundred eighteen acres of privately owned property contiguous to the western approach to Runway 06–24 of the Marine Corps Air Station, Santa Ana, California, as he considers necessary for safe and efficient operations at that station. Acquisition of such excess land or interests in land shall be effected by the exchange of such excess land or interests in land of approximately equal value, as the Secretary of Defense may determine to be available for the purpose. If the fair market value of the land or interests in land to be acquired is less than the fair market value of the Government property to be exchanged, the amount of such deficiency shall be paid to the Government.

SEC. 206. (a) Public Law 89–568, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows:

(1) With respect to Naval Submarine Medical Center, New London, Connecticut, strike out "$6,101,000" and insert in place thereof "$10,846,000".

(b) Public Law 89–568, as amended, is amended by striking out in clause (2) of section 602 "$119,164,000" and "$143,327,000" and inserting in place thereof "$123,909,000" and $148,072,000", respectively.

SEC. 207. (a) Public Law 90–408, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows:

(1) With respect to Naval Air Station, Lakehurst, New Jersey, strike out "$1,284,000" and insert in place thereof "$1,448,000".

(2) With respect to Naval School, Underwater Swimmers, Key West, Florida, strike out "$100,000" and insert in place thereof "$175,000".

(3) With respect to Navy Training Publications Center, Memphis, Tennessee, strike out "$289,000" and insert in place thereof "$413,000".

(4) With respect to Naval Hospital, Corpus Christi, Texas, strike out "$8,000,000" and insert in place thereof "$9,900,000".

(5) With respect to Naval Weapons Station, Concord, California, strike out "$395,000" and insert in place thereof "$650,000".

(6) With respect to Naval Shipyard, Bremerton, Washington, strike out "$1,640,000" and insert in place thereof $3,102,000".

(7) With respect to Marine Corps Base, Camp Pendleton, California, strike out "$1,838,000" and insert in place thereof "$2,040,000".

. (b) Public Law 90–408, as amended, is amended by striking out in clause (2) of section 802 "$234,900,000" and "$241,765,000" and inserting in place thereof "$239,082,000" and "$245,947,000", respectively.

SEC. 208. (a) Public Law 91–142 is amended under the heading "INSIDE THE UNITED STATES", in section 201 as follows:

(1) With respect to Naval Air Station, Cecil Field, Florida, strike out "$1,135,000" and insert in place thereof "$1,288,000".

(2) With respect to Naval Hospital, Camp Pendleton, California, strike out "$19,805,000" and insert in place thereof "$24,100,000".

(3) With respect to Naval Undersea Warfare Center, San Diego, California, strike out "$6,400,000" and insert in place thereof "$6-736,000".

(4) With respect to Navy Public Works Center, Pearl Harbor, Oahu, Hawaii, strike out "$6,519,000" and insert in place thereof "$7,278,000".

(b) Public Law 91–142 is amended in clause (2) of section 702 by striking out "$271,251,000" and "$306,305,000" and inserting in place thereof "$276,794,000" and "$311,848,000", respectively.

TITLE III

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Otis Air Force Base, Falmouth, Massachusetts, $81,000.

Peterson Field, Colorado Springs, Colorado, $5,998,000.

Tyndall Air Force Base, Panama City, Florida, $1,853,000.

AIR FORCE LOGISTICS COMMAND

Gentile Air Force Station, Dayton, Ohio, $240,000.

Griffiss Air Force Base, Rome, New York, $8,615,000.

Hill Air Force Base, Ogden, Utah, $2,090,000.

Kelly Air Force Base, San Antonio, Texas, $18,060,000.

McClellan Air Force Base, Sacramento, California, $4,615,000.

Robins Air Force Base, Macon, Georgia, $5,551,000.

Tinker Air Force Base, Oklahoma City, Oklahoma, $2,071,000.

Wright-Patterson Air Force Base, Dayton, Ohio, $1,159,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tullahoma, Tennessee, $4,768,000.

Brooks Air Force Base, San Antonio, Texas, $2,414,000.

Edwards Air Force Base, Muroc, California, $214,000.

Eglin Air Force Base, Valparaiso, Florida, $6,456,000.

Holloman Air Force Base, Alamogordo, New Mexico, $650,000.

Kirtland Air Force Base, Albuquerque, New Mexico, $1,263,000.

Satellite Tracking Facilities, $869,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Rantoul, Illinois, $8,504,000.

Columbus Air Force Base, Columbus, Mississippi, $372,000.

Craig Air Force Base, Selma, Alabama, $836,000.

Keesler Air Force Base, Biloxi, Mississippi, $8,057,000.

Lackland Air Force Base, San Antonio, Texas, $55,000.

Laredo Air Force Base, Laredo, Texas, $627,000.

Laughlin Air Force Base, Del Rio, Texas, $310,000.

Lowry Air Force Base, Denver, Colorado, $6,561,000.

Moody Air Force Base, Valdosta, Georgia, $2,227,000.

Randolph Air Force Base, San Antonio, Texas, $1,112,000.

Reese Air Force Base, Lubbock, Texas, $1,047,000.

Sheppard Air Force Base, Wichita Falls, Texas, $6,251,000.

Vance Air Force Base, Enid, Oklahoma, $1,901,000.

Webb Air Force Base, Big Spring, Texas, $349,000.

Williams Air Force Base, Chandler, Arizona, $4,199,000.

AIR UNIVERSITY

Maxwell Air Force Base, Montgomery, Alabama, $677,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Anchorage, Alaska, $2,309,000.

Various Locations, $4,886,000.

HEADQUARTERS COMMAND

Andrews Air Force Base, Camp Springs, Maryland, $3,949,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Altus, Oklahoma, $590,000.

Charleston Air Force Base, Charleston, South Carolina, $7,136,000.

Dover Air Force Base, Dover, Delaware, $8,327,000.

McChord Air Force Base, Tacoma, Washington, $619,000.

Norton Air Force Base, San Bernardino, California, $1,612,000.

Scott Air Force Base, Belleville, Illinois, $3,879,000.

Travis Air Force Base, Fairfield, California, $696,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Honolulu, Hawaii, $1,855,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Shreveport, Louisiana, $354,000.

Beale Air Force Base, Marysville, California, $1,954,000.

Blytheville Air Force Base, Blytheville, Arkansas, $213,000.

Castle Air Force Base, Merced, California, $82,000.

Davis-Monthan Air Force Base, Tucson, Arizona, $404,000.

Dyess Air Force Base, Abilene, Texas, $150,000.

Ellsworth Air Force Base, Rapid City, South Dakota, $196,000.

Francis E. Warren Air Force Base, Cheyenne, Wyoming, $178,000.

Grand Forks Air Force Base, Grand Fork, North Dakota, $1,089,000.

K. I. Sawyer Air Force Base, Marquette, Michigan, $483,000.

Loring Air Force Base, Limestone, Maine, $515,000.

March Air Force Base, Riverside, California, $209,000.

Malmstrom Air Force Base, Great Falls, Montana, $1,202,000.

McCoy Air Force Base, Orlando, Florida, $139,000.

Minot Air Force Base, Minot, North Dakota, $134,000.

Offutt Air Force Base, Omaha, Nebraska, $593,000.

Pease Air Force Base, Portsmouth, New Hampshire, $488,000.

Vandenberg Air Force Base, Lampoc, California, $3,158,000.

Westover Air Force Base, Chicopee Falls, Massachusetts, $1,176,000.

Wurtsmith Air Force Base, Oscoda, Michigan, $663,000.

Various locations, $430,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Austin, Texas, $337,000.

Cannon Air Force Base, Clovis, New Mexico, $645,000.

England Air Force Base, Alexandria, Louisiana, $726,000.

Forbes Air Force Base, Topeka, Kansas, $415,000.

George Air Force Base, Victorville, California, $1,096,000.

Homestead Air Force Base, Homestead, Florida, $1,035,000.

Langley Air Force Base, Hampton, Virginia, $4,792,000.

Little Rock Air Force Base, Little Rock, Arkansas, $425,000.

Lockbourne Air Force Base, Columbus, Ohio, $518,000.

Luke Air Force Base, Phoenix, Arizona, $11,719,000.

MacDill Air Force Base, Tampa, Florida, $240,000.

McConnell Air Force Base, Wichita, Kansas, $148,000.

Mountain Home Air Force Base, Mountain Home, Idaho, $71,000.

Myrtle Beach Air Force Base, Myrtle Beach, South Carolina, $813,000.

Nellis Air Force Base, Las Vegas, Nevada, $2,732,000.

Seymour-Johnson Air Force Base, Goldsboro, North Carolina, $1,428,000.

Shaw Air Force Base, Sumter, South Carolina, $2,548,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado Springs, Colorado, $700,000.

AIRCRAFT CONTROL AND WARNING SYSTEM

Various locations, $613,000.

UNITED STATES AIR FORCE SECURITY SERVICE

Goodfellow Air Force Base, San Angelo, Texas, $1,216,000.

OUTSIDE THE UNITED STATES

AIR FORCE SYSTEMS COMMAND

Eastern Test Range, $243,000.

Satellite Tracking Facilities, $1,455,000.

MILITARY AIRLIFT COMMAND

Wake Island Air Force Station, Wake Island, $80,000.

PACIFIC AIR FORCES

Various locations, $6,607,000.

STRATEGIC AIR COMMAND

Anderson Air Force Base, Guam, $2,273,000.

Goose Air Base, Canada, $862,000.

Ramey Air Force Base, Puerto Rico, $406,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, $5,273,000.

United Kingdom, $11,568,000.

Various Locations, $1,049,000.

UNITED STATES AIR FORCE SECURITY SERVICE

Various Locations, $644,000.

SEC. 302. The Secretary of the Air Force may establish or develop classified military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $33,792,000.

SEC. 303. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by: (a) unforeseen security considerations, (b) new weapons developments, (c) need and unforeseen research and development requirements, or (d) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, revert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $10,000,000: *Provided*, That the Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire as of September 30, 1971, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to that date.

SEC. 304. (a) Public Law 89–188, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 301 as follows:

(1) With respect to Andrews Air Force Base, Camp Springs, Maryland, strike out "$2,923,000" and insert in place thereof "$3,081,000".

(b) Public Law 89–188, as amended, is amended by striking out in clause (3) of section 602 "$216,360,000" and "$340,106,000" and inserting in place thereof "$216,518,000" and "$340,264,000", respectively.

SEC. 305. (a) Public Law 90–408, as amended, is amended under the heading "INSIDE THE UNITED STATES", in section 301 as follows:

(1) With respect to Vance Air Force Base, Enid, Oklahoma, strike out "$165,000" and insert in place thereof "$280,000."

(2) With respect to Westover Air Force Base, Chicopee Falls, Massachusetts, strike out "$150,000" and insert in place thereof "$220,000."

(3) With respect to Langley Air Force Base, Hampton, Virginia, strike out "$537,000" and insert in place thereof "$631,000."

(4) With respect to Seymour-Johnson Air Force Base, Goldsboro, North Carolina, strike out "$99,000" and insert in place thereof "$173,000."

(5) With respect to Shaw Air Force Base, Sumter, South Carolina, strike out "$614,000" and insert in place thereof "$707,000."

(b) Public Law 90–408, as amended, is amended by striking out in clause (3) of section 802 "$121,917,000" and "$193,572,000" and inserting in place thereof "$122,363,000" and "$194,018,000", respectively.

TITLE IV

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, convert-

ing, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment, for defense agencies for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE ATOMIC SUPPORT AGENCY

Bossier Base, Louisiana, $170,000.

Sandia Base, New Mexico, $1,090,000.

DEFENSE SUPPLY AGENCY

Defense Construction Supply Center, Columbus, Ohio, $942,000.

Defense Depot, Ogden, Utah, $98,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,570,000.

Defense Depot, Tracy, California, $1,813,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $1,617,000.

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment in the total amount of $35,000,000: *Provided*, That the Secretary of Defense, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

TITLE V—MILITARY FAMILY HOUSING

SEC. 501. The Secretary of Defense, or his designee, is authorized to construct, at the locations hereinafter named, family housing units and trailer court facilities in the numbers hereinafter listed, but no family housing construction shall be commenced at any such locations in the United States, until the Secretary shall have consulted with the Secretary of the Department of Housing and Urban Development, as to the availability of adequate private housing at such locations. If agreement cannot be reached with respect to the availability of adequate private housing at any location, the Secretary of Defense shall immediately notify the Committees on Armed Services of the House of Representatives and the Senate, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(a) Family housing units—

(1) The Department of the Army, one thousand three hundred units, $31,832,000:

Redstone Arsenal, Alabama, two hundred units.

Fort Huachuca, Arizona, one hundred units.

Sacramento Army Depot, California, one unit.

Sharpe Army Depot, California, one unit.

Fort Carson, Colorado, two hundred forty units.

U.S. Army Installations, Oahu, Hawaii, three hundred units.

Rock Island Arsenal, Illinois, forty units.

Fort Leavenworth, Kansas, one hundred fifty units.

Natick Laboratories, Massachusetts, twenty-eight units.

Fort Jackson, South Carolina, two hundred forty units.

(2) The Department of the Navy, three thousand five hundred units, $85,001,000.

Marine Corps Air Station, El Toro, California, three hundred units.

Naval Air Station, Lemoore, California, two hundred fifty units.

Naval Complex, San Diego, California, nine hundred units.

Naval Submarine Base, New London, Connecticut, three hundred units.

Naval Complex, Pensacola, Florida, two hundred units.

U.S. Naval Installations, Oahu, Hawaii, three hundred units.

Naval Training Center, Great Lakes, Illinois, one hundred fifty units.

Naval Complex, Newport, Rhode Island, two hundred units.

Naval Complex, Norfolk, Virginia, six hundred units.

Naval Station, Guam, three hundred units.

(3) The Department of the Air Force, two thousand eight hundred units, $66,401,000.

Williams Air Force Base, Arizona, two hundred units.

Castle Air Force Base, California, two hundred fifty units.

Norton Air Force Base, California, two hundred fifty units.

Homestead Air Force Base, Florida, two hundred units, and additional real estate.

Moody Air Force Base, Georgia, two hundred units.

Robins Air Force Base, Georgia, two hundred units.

U.S. Air Force Installations, Oahu, Hawaii, two hundred units.

Scott Air Force Base, Illinois, four hundred units.

Keesler Air Force Base, Mississippi, four hundred units.

Seymour-Johnson Air Force Base, North Carolina, two hundred units.

Wright-Patterson Air Force Base, Ohio, three hundred units.

(b) Trailer court facilities—

(1) The Department of the Navy, fifty spaces, $150,000.

(2) The Department of the Air Force, three hundred eighty-nine spaces, $1,050,000.

SEC. 502. Authorization for the construction of family housing provided in this Act shall be subject, under such regulations as the Secretary of Defense may prescribe, to the following limitations on cost, which shall include shades, screens, ranges, refrigerators, and all other installed equipment and fixtures:

(a) The average unit cost for each military department for all units of family housing constructed in the United States (other than Hawaii and Alaska) and Puerto Rico shall not exceed $23,000 including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

(b) No family housing unit in the areas listed in subsection (a) shall be constructed at a total cost exceeding $40,000 including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

(c) When family housing units are constructed in areas other than those listed in subsection (a) the average cost of all such units shall not exceed $32,000 and in no event shall the cost of any unit exceed $40,000. The cost limitations of this subsection shall include the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

(d) Construction at Fort Leavenworth, Kansas, of units which were authorized by Public Law 89–188 (79 Stat. 793) or 90–110 (81 Stat. 279), shall not be subject to the cost limitations of subsection (a) of this section or to the cost limitations contained in prior Military Construction Authorization Acts, but the average cost of such units shall not exceed $26,000 including the cost of the family unit and the proportionate costs of land acquisition, site preparation, and installation of utilities.

SEC. 503. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on cost of construction of family housing, the limitations contained in section 502 of this Act shall apply to all prior authorizations for construction of family housing not heretofore repealed and for which construction contracts have not been executed by date of enactment of this Act.

SEC. 504. The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions or extensions not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(a) for the Department of the Army, $5,170,000.

(b) for the Department of the Navy, $6,300,000.

(c) for the Department of the Air Force, $7,400,000.

(d) for the Defense Agencies, $326,000.

SEC. 505. The Secretary of Defense, or his designee, is authorized to construct, or otherwise acquire, two hundred family housing units in foreign countries at a total cost not to exceed $5,523,000. This authority shall be funded by the use of excess foreign currencies, when so provided in Department of Defense Appropriation Acts, except that appropriation of $488,000 is authorized for purchase of United States manufactured equipment in support of the housing.

SEC. 506. Section 515 of Public Law 84–161 (69 Stat. 324, 352), as amended, is amended to read as follows:

"SEC. 515. During fiscal years 1971 and 1972, the Secretaries of the Army, Navy, and Air Force, respectively, are authorized to lease housing facilities for assignment as public quarters to military personnel and their dependents, if any, without rental charge, at or near any military installation in the United States, Puerto Rico or Guam if the Secretary of Defense, or his designee, finds that there is a lack of adequate housing at or near such military installation and that (1) there has been a recent substantial increase in military strength and such increase is temporary, or (2) the permanent military strength is to be substantially reduced in the near future, or (3) the number of military personnel assigned is so small as to make the construction of family housing uneconomical, or (4) family housing is required for personnel attending service school academic courses on permanent change of station orders, or (5) family housing has been authorized but is not yet completed or a family housing authorization request is in a pending military construction authorization bill. Such housing facilities may be leased on an individual unit basis and not more than seven thousand five hundred such units may be so leased at any one time. Expenditures for the rental of such housing facilities may not exceed an average of $190 per month for each military department, nor the amount of $250 per month for any one unit, including the cost of utilities and maintenance and operation."

SEC. 507. Section 507 of Public Law 88–174 (77 Stat. 307, 326), as amended, is amended by striking out "1970 and 1971" and inserting in lieu thereof "1971 and 1972."

SEC. 508. The Secretary of Defense, or his designee, is authorized to relocate family housing units from locations where they exceed requirements to military installations where there are housing shortages: *Provided*, That the Secretary of Defense shall notify the Committees on Armed Services of the House of Representatives and the Senate of the proposed new locations and estimated costs, and no contract shall be awarded within sixty days of such notification.

SEC. 509. There is authorized to be appropriated for use by the Secretary of Defense, or his designee, for military family housing as authorized by law for the following purposes:

(a) for construction and acquisition of family housing, including improvements to adequate quarters, improvements to inadequate quarters, minor construction, relocation of family housing, rental guarantee payments, construction and acquisition of trailer

court facilities, and planning, an amount not to exceed $206,717,000, and

(b) for support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act, as amended (12 U.S.C. 1715m), an amount not to exceed $588.-636,000.

TITLE VI

GENERAL PROVISIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) and sections 4774(d) and 9774(d) of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

SEC. 602. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: Inside the United States $179,717,000; outside the United States, $83,197,000; section 102, $2,000,000; or a total of $264,914,000.

(2) for title II: Inside the United States, $245,930,000; outside the United States, $21,994,000; section 202, $974,000; or a total of $268,898,000.

(3) for title III: Inside the United States, $191,937,000; outside the United States, $30,460,000; section 302, $33,792,000; or a total of $256,189,000.

(4) for title IV: A total of $44,300,000.

(5) for title V: Military family housing, $795,353,000.

SEC. 603. (a) Except as provided in subsection (b), any of the amounts specified in titles I, II, III, and IV of this Act, may, in the discretion of the Secretary concerned, be increased by 5 per centum when inside the United States (other than Hawaii and Alaska), and by 10 per centum when outside the United States or in Hawaii and Alaska, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. However, the total cost of all construction and acquisition in each such title may not exceed the total amount authorized to be appropriated in that title.

(b) When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of Defense, or his designee, determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (a), the Secretary concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(c) Subject to the limitations contained in subsection (a), no individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation may be placed under contract if—

(1) the estimated cost of such project is $250,000 or more, and

(2) the current working estimate of the Department of Defense, based on bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress, until after the expiration of thirty days from the date on which a written report of the facts relating to the increased cost of such project, including a statement of the reasons for such increase has been submitted to the Committees on Armed Services of the House of Representatives and the Senate.

(d) The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army, or the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected, together with the design, construction, supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress, shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report semiannually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder.

SEC. 605. (a) As of October 1, 1971, all authorizations for military public works (other than family housing) to be accomplished by the Secretary of a military department in connection with the establishment or development of military installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, and III, and IV of the Act of December 5, 1969, Public Law 91–142 (83 Stat. 293), and all such authorizations contained in Acts approved before December 6, 1969, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions;

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts or land acquisitions in whole or in part before October 1, 1971, and authorizations for appropriations therefor; and

(3) notwithstanding the repeal provisions of section 705(a) of the Act of December 5, 1969, Public Law 91–142 (83 Stat. 293, 315), all authorizations for military public works (other than family housing), contained in titles I, II, III, IV, and V of the Act of July 21, 1968, Public Law 90–408 (82 Stat. 367), and all authorizations for appropriations therefor, and not superseded or otherwise modified, are hereby continued and shall remain in full force and effect until October 1, 1971.

(b) Effective fifteen months from the date of enactment of this Act, all authorizations for construction of family housing, including trailer court facilities, all authorizations to accomplish alterations, additions, expansions, or extensions to existing family housing, and all authorizations for related facilities projects, which are contained in this or any previous Act, are hereby repealed, except—

(1) authorizations for family housing projects as to which appropriated funds have been obligated for construction contracts or land acquisitions or manufactured structural component contracts in whole or in part before such date; and

(2) authorizations to accomplish alterations, additions, expansions, or extensions to existing family housing, and authorizations for related facilities projects, as to which appropriated funds have been obligated for construction contracts before such date; and

(3) Notwithstanding the repeal provision of section 705(b) of the Act of December 5, 1969, Public Law 91–142 (83 Stat. 293, 316) authorization for two hundred and sixty family housing units at Fort Polk, Louisiana.

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction cost index is 1.0:

(1) $3,200 per man for permanent barracks;

(2) $11,000 per man for bachelor officer quarters;

unless the Secretary of Defense or his designee determines that because of special circumstances, application to such project of the limitations on unit costs contained in this section is impracticable: *Provided*, That notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

SEC. 607. Chapter 159 of title 10, United States Code, is amended:

(1) By striking out the figure "$200,000" in the item relating to section 2674 in the analysis and inserting "$300,000" in place thereof.

(2) By striking out the figure $200,000" in the catchline of section 2674 and inserting "$30,000" in place thereof.

(3) By striking out the figures "$200,000", "$50,000", and "$25,000" in section 2674(b) and inserting "$300,000", $100,000", and "$50,000", respectively, in place thereof.

(4) By striking out the figure "$25,000" in sections 2674 (a) and (e) and inserting "$50,000" in place thereof.

SEC. 608. Section 2675 of title 10, United States Code, is amended by (1) inserting "(a)" before "Notwithstanding", and by (2) adding the following new subsections:

"(b) A lease may not be entered into under this section if the average estimated an-

nual rental during the term of the lease is more than $250,000 until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed lease is submitted to the Committees on Armed Services of the Senate and House of Representatives.

"(c) A statement in a lease that the requirements of this section have been met, or that the lease is not subject to this section, is conclusive."

SEC. 609. Section 709 of the Military Construction Authorization Act, 1970 (83 Stat. 317), is amended by (1) deleting from the first sentence thereof "1971" and inserting in its place "1972"; and (2) deleting from the last sentence thereof "$750,000" and inserting in its place "$300,000".

SEC. 610. (a) The Secretary of Defense is authorized to assist communities located near Grand Forks Air Force Base, Grand Forks, North Dakota, and Malmstrom Air Force Base, Great Falls, Montana, in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary determines that there is an immediate and substantial increase in the need for such services and facilities in such communities as a direct result of work being carried out in connection with the construction, installation, testing, and operation of the Safeguard Anti-ballistic Missile System and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities.

(b) The Secretary of Defense shall carry out the provisions of this section through existing Federal programs. The Secretary is authorized to supplement funds made available under such Federal programs to the extent necessary to carry out the provisions of this section, and is authorized to provide financial assistance to communities described in subsection (a) of this section to help such communities pay their share of the costs under such programs. The heads of all departments and agencies concerned shall cooperate fully with the Secretary of Defense in carrying out the provisions of this section on a priority basis.

(c) In determining the amount of financial assistance to be made available under this section to any local community for any community service or facility, the Secretary of Defense shall consult with the head of the department or agency of the Federal Government concerned with the type of service or facility for which financial assistance is being made available and shall take into consideration (1) the timelag between the initial impact of increased population in any such community and any increase in the local tax base which will result from such increased population, (2) the possible temporary nature of the increased population and the long-range cost impact on the permanent residence of any such community, and (3) such other pertinent factors as the Secretary of Defense deems appropriate.

(d) Any funds appropriated to the Department of Defense for the fiscal year beginning July 1, 1970, for carrying out the Safeguard Anti-ballistic Missile System shall be utilized by the Secretary of Defense in carrying out the provisions of this section to the extent that funds are unavailable under other Federal programs. Funds appropriated to the Department of Defense for any fiscal year beginning after June 30, 1971, for carrying out the Safeguard Anti-ballistic Missile System may, to the extent specifically authorized in an annual military construction authorization Act, be utilized by the Secretary of Defense in carrying out the provisions of this section to the extent that funds are unavailable under other Federal prorgams.

(e) The Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives semiannual reports indicating the total amount expended in the case of each local community which was provided assistance under authority of this section during the preceding six-month period, the specific projects for which assistance was provided during such period, and the total amount provided for each such project during such period.

SEC. 611. (a) The Secretary of Defense is directed to undertake a study and to prepare a report on the weapons training now being conducted in the Culebra complex of the Atlantic Fleet Weapons Range. This study shall consider all possible alternatives, geographical and technological, to the training now taking place in the Culebra complex, and shall contain specific recommendations for, together with the estimated costs of, moving all or a part of such activities to a new site or sites, and appropriately modifying such activities to minimize danger to human health and safety. In addition, such study shall consider the feasibility of resettling the people of Culebra to another location in the Commonwealth of Puerto Rico, the cost of such a move, and the attitude of the people of Culebra to a generous resettlement plan that would have to be approved by a majority of the qualified electors of Culebra in a plebiscite. In preparing such study, the Secretary is directed to consider the impact of each of the alternatives on:

(1) the safety and well-being of the people who live on Culebra;

(2) the natural and physical environment of Culebra and adjoining cays and their recreational value;

(3) the development of a sound, stable economy in Culebra;

(4) the unique political relationship of Culebra and Puerto Rico to the United States;

(5) the operational readiness and proficiency of the Atlantic Fleet; and

(6) national security.

(b) In preparing the report required by this section, the Secretary shall consult with the people of Culebra, the Government of Puerto Rico, and all appropriate Federal agencies having jurisdiction or special expertise on the subject matter involved. The report required by this subsection shall be transmitted to the President of the United States and to the chairmen of the Committees on Armed Forces of the Senate and the House of Representatives no later than April 1, 1971.

(c) Pending the completion of the report required by this section and its review by the President of the United States, the appropriate committee and the Congress, the Department of Navy is directed to avoid any increase or expansion of the present weapons range activities in the Culebra complex and, wherever possible, without degrading the activities, to institute procedures which will minimize interference with the normal activities and the solitude of the people of Culebra.

SEC. 612. Effective October 28, 1969, section 1013 of Public Law 89–754 (80 Stat. 1255, 1290) as amended, is amended by (1) inserting "or if as the result of such action and other similar action in the same area," after the word "part," in subsection (a) (3), and by (2) adding the following new subsection:

"(k) The authority provided by this section to the Secretary of Defense shall also be available when the Department of Defense has ordered a reduction in the scope of operations at a military base or installation. All references in subsections (a), (b), and (c) of this section to 'closures' or 'closings' or words of similar effect shall be deemed to include the reduction in scope of operations at a base or installation."

SEC. 613. Chapter 159 of title 10, United States Code, is amended as follows:

(1) by adding the following new section at the end thereof:

"§ 2683. Relinquishment of legislative jurisdiction

"(a) Notwithstanding any other provision of law, the Secretary of a military department may, whenever he considers it desirable, relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State may otherwise provide.

"(b) The authority granted by this section is in addition to and not instead of that granted by any other provision of law."; and

(2) by adding the following new item at the end of the analysis:

"2683. Relinquishment of legislative jurisdiction."

SEC. 614. Notwithstanding any other provisions of law, the Secretary of the Army, or his designee, is authorized to convey to the Anheuser-Busch Company, subject to such terms and conditions as the Secretary of the Army shall deem to be in the public interest, all right, title and interest of the United States in and to the land generally identified as Camp Wallace located in York County, Virginia, and James City County, Virginia, comprising approximately one hundred and ninety-one acres. In consideration of such conveyance by the Secretary of the Army, the Anheuser-Busch Company shall convey to the United States unencumbered fee title to certain lands generally identified as being a portion of the Oakland Farm in Newport News, Virginia, comprising approximately one hundred and ninety-one acres, together with such buildings and improvements thereon, or to be constructed thereon without cost to the United States, as are acceptable to the Secretary of the Army and subject to such other conditions as are acceptable to the Secretary of the Army. The exact acreages and legal descriptions of both properties are to be determined by accurate surveys as mutually agreed upon by the Secretary of the Army and the Anheuser-Busch Company: *Provided,* That the Secretary of the Army is authorized to accept the lands so conveyed to the United States which lands shall become a part of the Fort Eustis Military Reservation and be administered by the Department of the Army.

SEC. 615. Title I, II, III, IV, V, and VI of this Act may be cited as the "Military Construction Authorization Act, 1971".

TITLE VII

RESERVE FORCES FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed—

(1) For the Department of the Army:

(a) Army National Guard of the United States $13,700,000.

(b) Army Reserve, $9,300,000.

(2) For the Department of the Navy: Naval and Marine Corps Reserves, $4,500,000.

(3) For the Department of the Air Force:

(a) Air National Guard of the United States, $6,500,000.

(b) Air Force Reserve, $3,500,000.

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774(d) and 9774(d) of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift,

purchase, exchange of Government-owned land, or otherwise.

SEC. 703. This title may be cited as the "Reserve Forces Facilities Authorization Act, 1971".

And the Senate agree to the same.

L. MENDEL RIVERS,
G. ELLIOTT HAGAN,
CHARLES H. WILSON,
BILL NICHOLS,
W. C. "SAM" DANIEL,
WILLIAM G. BRAY,
DONALD D. CLANCY,
CARLETON J. KING,
ED FOREMAN,
Managers on the Part of the House.

HENRY M. JACKSON,
JOHN C. STENNIS,
SAM J. ERVIN, Jr.,
HOWARD W. CANNON,
HARRY F. BYRD, Jr.,
STROM THURMOND,
JOHN G. TOWER,
PETER H. DOMINICK,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17604) to authorize certain construction at military installations, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying report:

LEGISLATION IN CONFERENCE

On May 20, 1970, the House of Representatives passed H.R. 17604 which is the fiscal year 1971 military construction authorization for the Department of Defense and Reserve components.

On September 29, 1970, the Senate considered the legislation, amended it by striking out all language after the enacting clause and wrote a new bill.

COMPARISON OF HOUSE AND SENATE BILLS

H.R. 17604, as passed by the House of Representatives, provided construction authorization to the military departments and the Department of Defense for fiscal year 1971 in the total amount of $1,999,365,000.

The bill as passed by the Senate provided new authorizations in the amount of $1,654,527,000.

SUMMARY OF RESOLUTION OF DIFFERENCES

As a result of a conference between the House and Senate on the differences in H.R. 17604, the conferees agreed to a new adjusted authorization for military construction for fiscal year 1971 in the amount of $1,667,154,000.

The Department of Defense and the respective military departments had requested a total of $2,060,094,000 for new construction authorization for fiscal year 1971. This amount included $334 million for ABM related construction later transferred by the Senate to the Military Procurement Bill. The action of the Conferees, therefore, reduces this departmental request by $158,940,000 rather than $392,940,000 as it would appear. After the House of Representatives had completed its action on H.R. 17604, the Department of Defense and the military departments requested certain additions which made the Senate consider a request of $17,087,000 more than the House of Representatives.

TOTAL AUTHORIZATION GRANTED, FISCAL YEAR 1971

Brief of authorizations

Title I (Army):	
Inside the United States	$179,717,000
Outside the United States	83,197,000
Section 102	2,000,000
Total	264,914,000
Title II (Navy):	
Inside the United States	$245,930,000
Outside the United States	21,994,000
Section 202	974,000
Total	268,898,000
Title III (Air Force):	
Inside the United States	191,937,000
Outside the United States	30,460,000
Section 302	33,792,000
Total	256,189,000
Title IV (defense agencies)	44,300,000
Title V (housing)	795,353,000
Title VII (Reserve components):	
Army National Guard	13,700,000
Army Reserve	9,300,000
Naval and Marine Corps Reserve	4,500,000
Air National Guard	6,500,000
Air Force Reserve	3,500,000
Total	37,500,000
Grand total of authorities granted by titles I, II, III, IV, V and VII	1,667,154,000

TITLE I—ARMY

The House had approved construction in the amount of $591,316,000 for the Department of the Army. This included $325.2 million for the SAFEGUARD System. The Senate approved construction for the Army in the amount of $259,297,000. This was a reduction of $329,217,000. However, $325.2 million of this amount was for construction for the SAFEGUARD System. These funds, which were originally included in the House version of the bill, were placed by the Senate in the Military Procurement Authorization bill and were retained in the conferees' report on that legislation. Therefore, Senate action resulted in an actual reduction from the House bill in the amount of $6,819,000.

The conferees agreed to a new total for Title I in the amount of $264,914,000.

Among the items, originally deleted by the House, and restored by the conferees were the following:

Fort Belvoir, Virginia—Anti-intrusion systems laboratory, $2,759,000

House action deleted this particular project believing that due to fiscal restraints the item could be deferred temporarily. However, the conferees, after thorough discussion, agreed to the inclusion of this vitally needed project. This project will provide facilities for the implementation of priority Research, Development and Subsystem Evaluation of Army Programs in anti-infiltration/barrier systems, designated surveillance, Target Acquisition and Night Observation items.

Ammunition storage—Saarland, Germany, $3,598,000

Deferral of this project by the House was related to rules for financing under the NATO Infrastructure rather than desirability of the project. After full discussion, the conferees agreed to restore the project because of a special agreement recently made for common sharing by NATO countries of relocation costs incurred by the move from France.

Since the U.S. share of NATO Infrastructure funding is about 30 percent, the U.S. cost of this project will be approximately $1,080,000. To obtain reimbursement, it is first necessary to fund this project under military construction authorization and when reimbursed, the funds will be used for paying the U.S. share of Infrastructure costs in future fiscal years.

The following item, originally deleted by the Senate, was restored by the conferees:

Fort Rucker, Alabama—Aviation accident research building, $1,435,000

This project was denied by the Congress last year even though the Army strongly urged its inclusion. Again this year the Army testified as to the necessity for the construction of this facility. The U.S. Army Board for Aviation Accident Research (USABAAR) is unique within the Army and is the embodiment of the Army aircraft accident research, education and prevention effort. The USABAAR mission is to enhance the durability of Army aircraft and related support equipment. House conferees felt that of equal importance to accident cause determination is the objective laboratory analysis of aircraft accident damaged parts and recommendations for the improved engineering design and development of aerodynamic control components, aircraft structures and propulsion units. Therefore, the House conferees were able to prevail on the Senate to restore this project to the bill.

Section 104

Section 104 was added by the Senate to authorize the Secretary of the Army to acquire at fair market value, State owned and privately owned land and estates in land and improvements thereon located within the boundaries of the White Sands Missile Range, New Mexico. This section was added for the purpose of acquiring in fee simple the land heretofore leased by the Army to carry out the functions at this missile range. The House agreed with this Senate action.

Section 105

The Senate also added Section 105 to authorize the Secretary of the Army to acquire fee title to approximately 160 acres in the vicinity of Mount Joy, Pennsylvania, for the construction of a prototype facility to augment and upgrade the area's Civil Defense warning capability. Funds for this acquisition will come out of appropriations which may be available for Civil Defense in the fiscal year 1971 Independent Offices Appropriations Act.

Deficiency authorization

One of the real controversial items faced by your conferees was the deficiency authorization request submitted by the Department of the Army after House consideration of the bill.

Last year the Military Construction Authorization Act contained, in Title I, the amount of $16.8 million for a Cadet Activities Building at the Military Academy West Point. An appropriation in that amount was also provided.

During the authorization hearings before the House Military Construction Subcommittee in April 1970, the Army witnesses requested authority to negotiate a contract for the Activities Building rather than go out for competitive bids so that they could be sure to stay within the authorization and funding provided. The Army request was agreed to. After House passage of the Authorization Bill, but before Senate action, the Army advised that the current working estimate for this building, as of August 14, 1970, exceeded the authorization and funds by $10,738,000, an increase of 64 percent.

The Senate Committee approved the deficiency request by the Army and included the $10.7 million in their bill with the understanding that additional appropriations would not be requested. The Senate made it incumbent upon the Army to use funds available to them for other purposes, in other words, make a decision as to priorities. Since the Congress is committed to the construction of this facility, the House conferees agree to the inclusion of the deficiency request. However, the funding proposal of the Senate was not acceptable to House conferees who insisted that the Army obtain an appropriation to cover this deficiency.

House conferees were of the opinion that the Senate approach was a "robbing Peter to pay Paul" situation and would probably cause some needed projects to be cancelled or reduced in scope by the Army to fund this cost overrun. After a very thorough discussion of this matter, the Senate conferees agreed that the habitual overruns on construction estimates at West Point are becoming intolerable, and receded to the House position of requiring the Army to request an appropriation for this deficiency and justify it before the Appropriations Committee.

The conferees also discussed the new Facilities Advisory Board being appointed to assist in the planning and review of the Military Academy construction program. It is the hope of all conferees that this review board will be successful in its mission of reviewing the future planning and construction programs and put a stop to the unreliable cost estimates previously provided the Congress for projects at West Point.

TITLE II—NAVY

The House approved $268,040,000 in new construction authorization for the Department of the Navy.

The Senate approved $268,913,000.

The conferees agreed to the new total in the amount of $268,898,000.

Resolution of major differences is discussed below:

Little Creek, Virginia—Amphibious base, $1,959,000

The Senate denied this project because it was believed nonessential at this time and could be deferred for a year without detriment to the Navy. House conferees felt that this was an urgent requirement to reduce the current deficit in bachelor enlisted spaces. Present World War II buildings are deteriorated beyond economical repair. After much discussion, the Senate receded, and this project was restored to the bill.

Jacksonville, Florida—Naval air rework facility, $2,481,000

The House version of the bill had provided this much needed facility. The Senate denied the project because it was believed nonessential at this time. The House conferees were able to convince the Senate conferees of the importance of this item by showing that the improvements in quality and savings in aircraft turnaround time would greatly improve fleet support and would result in a payback period of 2.8 years.

Naval training center, Orlando, Florida—Academic training buliding, $2,463,000; technical training building, $2,223,000

The House passed bill contained two projects for the naval training center totaling $11,327,000. The Senate added these two training buildings. After a thorough discussion of all projects under consideration and the value to the Navy of this essential training center, the House conferees were able to convince the Senate conferees that these projects previously deleted by the House could be safely deferred for at least one more year. The Senate receded.

Pearl Harbor, Hawaii—Fleet Intelligence Center, $4,579,000

The House in its consideration of this bill, denied the Navy's request for this important facility. The Senate included the requested authorization. The Fleet Intelligence Center at Pearl Harbor develops and produces intelligence to support Navy forces in the Pacific area, and the commander in chief, Pacific Fleet. Senate conferees were adamant in their position and insisted that this intelligence facility be included. After a thorough discussion of the importance of the Fleet Intelligence Center, House conferees receded.

Naval Shipyard, Pearl Harbor, Hawaii—Forge and propeller shop, $1,258,000

The House version of the bill had provided the forge and propeller shop requested by the Navy. The Senate conferees insisted that this project could safely be deferred for one year, and the House receded.

Other Navy items

The conferees approved the following items previously in dispute, for the welfare and morale needs of naval and Marine Corps personnel:

Auxiliary Landing Field, Bogue, North Carolina—Mess hall, $248,000.

Naval Public Works Center, Subic Bay, P.I.—Water supply and distribution center, $859,000.

Naval Ammunition Depot, Hawthorne, Nevada—Bachelor enlisted quarters, $495,000.

TITLE III—AIR FORCE

The House authorized new construction for the Department of the Air Force in the total amount of $250,771,000.

The Senate increased this authorization to $252,246,000.

One of the major items in controversy during the conference was the $2.3 million authorized by the House for the construction of a school building at the Bolling-Anacostia complex to provide for the education of dependents of military personnel residing in the Bellevue, Wilburn, and Bolling family housing areas at this installation.

The Senate did not include authorization for this school in its bill.

The conferees from both Houses deplore the horrendous situation that exists in the District of Columbia School System which children of military parents living in the Bolling-Anacostia area are forced to endure. Nevertheless, the conferees did not feel at this time that funds from the austere military budget should be allocated for construction and operation of a dependent school at Bolling-Anacostia.

The conferees strongly urge the Secretary of Defense, however, to work with the District of Columbia School Board to expand the present school on the Bolling-Anacostia complex, which is operated by the District of Columbia, from the three grades now in operation to a full-size school; namely, from kindergarten to the twelfth grade, to serve the military dependents living in the Bolling-Anacostia complex. The Secretary of Defense, together with District School authorities, should explore and utilize all available Federal programs under which financial support can be obtained to accomplish this objective.

The Secretary of Defense shall report the results of this undertaking to the Committees on Armed Services of the House of Representatives and Senate prior to submission of the Department's fiscal year 1972 Military Construction Authorization request.

The House conferees therefore reluctantly yielded.

Among the Air Force items in controversy resolved during the House-Senate conference were the following:

Peterson Field, Colorado—Base administration facilities, $1,646,000

The House version of the bill omitted this project. It was included in the Senate version. Since this construction will be the final phase of a two-phase project for relocating the Air Base Wing to Peterson Field and will make possible the complete consolidation of all Headquarters Wing administrative functions at Peterson Field, the House receded.

Griffiss Air Force Base, New York—Electronic research laboratory, $1,060,000

The House version of the bill originally contained authorization for this vital project, but in the Senate review it was deleted. After a thorough discussion among the conferees, the House conferees convinced the Senate conferees that a centrally located facility will assure effective development and availability of electronic reliability and maintainability data for weapons systems. The Senate, therefore, receded.

Kelly Air Force Base, Texas—Addition to headquarters facility, $965,000

The House, in its consideration of the bill, deleted this project because it felt that this project could be safely deferred for another year. However, the Senate conferees were very persuasive and pointed out that construction of this facility will result in savings in personnel, savings, utilities, and transportation costs and produce annual savings of $223,000. The House receded.

Wright-Patterson Air Force Base, Ohio—Logistics management facility, $6,379,000

This project was denied by the House in its consideration of the bill. The Senate Committee added the project during its consideration. Air Force testimony was to the effect that the space presently occupied was inadequate and that the effectiveness of both personnel and equipment is significantly reduced. However, it was believed by the House conferees that the present space could be used and the present work load be accomplished in these facilities for at least one more year. The Senate receded.

Other projects

Some of the other projects initially deleted in the House version of the bill but added by the Senate and on which the House conferees receded were as follows:

George Air Force Base, California—aircraft engine test facility, $134,000.

Lowry Air Force Base, Colorado—technical training research facility, $559,000.

Beale Air Force Base, California—aircraft maintenance dock, $590,000.

Nellis Air Force Base, Nevada:

Aircraft engine test facility, $129,000.

Post Office, $239,000.

Electrical distribution system, $282,000.

Ramstein, Germany—Avionics shop, $507,000.

Section 302

There were two classified projects requested by the Department of Defense to be included in Section 302 after House consideration of the bill. These two projects totaled $12,080,000 and were added by the Senate during their consideration of the bill. After a thorough discussion among the conferees about the necessity for these classified projects, the House agreed to their inclusion in the bill.

TITLE IV—DEFENSE AGENCIES

The Administration requested an addition to this title in the amount of $700,000 after the House had considered the bill. This $700,000 was for land acquisition and the acquisition of easements on 115 acres to provide a buffer zone at the National Security Agency at Fort Meade, Maryland.

Senate conferees convinced House conferees of the necessity for this authorization, and the House agreed to its inclusion in the bill.

TITLE V—FAMILY HOUSING

The Administration requested authorization for 8,000 new family housing units for fiscal year 1971 at a cost of $196,507,000. The balance of the request for new authorization in Title V, $589,536,000, was for improvements to adequate quarters, minor construction, rental guarantee payments, debt payments, and mortgage insurance premiums.

The Senate deleted 400 units (for two Safeguard sites) and authorized 400 units in the Defense Procurement Authorization Act for fiscal year 1971 (H.R. 17123). The Senate also reduced the authorization request for new construction by $8.8 million, and it was added to the Defense Procurement Authorization Act. The House receded.

Further, the Administration requested that the average per-unit cost limitation for units constructed in the United States be increased from $21,000 to $24,000. The House approved the $24,000 figure. The Senate approved a new average cost limitation of $22,500. The conferees agreed on a new average cost limitation of $23,000.

The Senate added, at the request of the Defense Department, authority to build units previously authorized, but not under contract, at Fort Leavenworth, Kansas, at an average cost of $26,000 as an exception to the average unit cost and the provisions of section 503. The House agreed to retain this provision.

The House had originally approved 20 units of family housing for the Army at New Cumberland Army Depot, Pennsylvania. Subsequent to the House approval of the bill, but prior to the approval of the Senate, the Army requested that the 20 units be deleted from New Cumberland Army Depot and in lieu thereof 20 units be included for Fort Carson, Colorado. The Senate approved the Army's request. The House recedes and concurs in the provision of 20 additional units at Fort Carson, Colorado.

TITLE VI—GENERAL PROVISIONS

Section 604

Section 604 of the House version provided, among other things, that the Secretaries of the military departments would report semiannually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts *awarded* on other than a competitive basis to the lowest responsible bidder. The Senate version, instead of using the phrase contracts *awarded*, used the phrase "contracts *completed*." The House conferees felt that by use of the word "completed" this section was not restrictive enough and insisted that the word awarded be used instead of the word "completed". Further, in order to further restrict the language of 604, the conferees agreed to add language excepting architect/engineer contracts from being awarded on a competitive basis unless specifically authorized by the Congress and stating that such contracts should continue to be awarded in accordance with presently established procedures, customs, and practices.

The Senate recedes.

Section 605(3)

The Senate added an exception to the repealing clause excluding therefrom the 260 family housing units authorized for Fort Polk, Louisiana.

The House recedes.

Section 606

The Senate deleted cost limitations on cold storage and regular warehousing. The House included such limitations. These limits were initiated during the Korean conflict when considerable warehousing was being constructed. In the past few years this portion of the program has only averaged approximately $5 million.

In view of the reduction in this type of construction, the House recedes.

Section 607

The House version of this section approved the Department of Defense request to increase the present dollar ceilings and approval limitations on minor construction as follows:

(a) The maximum limit on minor construction would be increased from $200,000 to $300,000;

(b) The approval level of the Secretary of a Military Department would be increased from $50,000 to $100,000. Above this limit requires the approval by the Secretary of Defense or his designee;

(c) The level that can be accomplished under operation and maintenance would be raised from $25,000 to $50,000; and

(d) A determination of urgency would not be required for projects of $50,000 or less in lieu of the present $25,000 level.

The Senate version would:

Decrease the proposed levels of (a) to $250,000 maximum.

Reduce the Service approval level (b) from $100,000 to $75,000, and

Reduce the (c) operation and maintenance, and (d) certification level from $50,000 to $37,500.

The Senate recedes.

Section 610

The Senate deleted the general provision related to the $2.3 million for construction of a school in Title III for the Bolling-Anacostia area.

The House recedes with the explanation heretofore provided under Title II.

Section 610

A new Section 610 was added by the Senate and replaces Section 610 of the House version, explained above, to provide assistance to local communities near Grand Forks Air Force Base, North Dakota, and Malmstrom Air Force Base, Great Falls, Montana, which will have to provide increased services and facilities arising from the construction and operation of the proposed ABM sites.

House conferees agreed that financial assistance to these small communities would be needed but that some limitation should be placed in the bill to provide Congressional review of the assistance to be given out of the Safeguard ABM appropriations. Therefore, House conferees proposed an amendment providing that "funds appropriated to the Department of Defense for any fiscal year beginning after June 30, 1971 for carrying out the Safeguard Anti-Ballistic Missile System may, to the extent specifically authorized in an annual military construction authorization act, be utilized by the Secretary of Defense in carrying out the provisions of this section to the extent that funds are unavailable under other Federal programs".

The Senate recedes.

Section 611

This section was added to the House bill by the Senate to require a study and ultimate determination of the Culebra problem. This particular section was one of the most controversial matters contained in the bill and a very thorough and lengthy discussion regarding same was held by the conferees. The Senate had provided for a comprehensive study and a report by the Secretary of Defense to the President of the United States and Chairmen of the Committees on Armed Services of the Senate and House of Representatives no later than April 1, 1971. It was provided that pending the completion of the report required and its review that the Navy was directed to avoid any increase or expansion of the present range activities in or around the Culebra complex. One other section of the Senate amendment was a direction to the Navy to terminate all range activities on or near the eastern coast cays within 3 nautical miles of the eastern coast not later than January 1972, unless the President of the United States made a determination that the national security required continuation of such activities beyond that date.

House conferees insisted and were adamant in their position that the direction to terminate all activities by a certain date must be stricken. The House conferees agreed to the study required in the Senate amendment with the following proviso:

"In addition, such study shall consider the feasibility of resettling the people of Culebra to another location in the Commonwealth of Puerto Rico, the cost of such a move, and the attitude of the people of Culebra to a generous resettlement plan that would have to be approved by a majority of the qualified electors of Culebra in a plebiscite."

The discussion on this matter resulted in the deletion of the section directing termination of activities (section c) and the addition of the suggested language by the House conferees.

The Senate recedes.

Section 612

Section 612 was added by the Senate at the request of the Defense Department after House consideration. It amends the authority under the Homeowner's Assistance program to permit considering (1) the cumulative effect of several base closures in an area and (2) reductions in scope of operations at an installation, as well as an outright closure.

The House recedes and agrees to the inclusion of this provision.

Section 613

Section 613 was added by the Senate after House consideration at the request of the Defense Department. This section would permit the Secretary of a Military Department to relinquish to a State the jurisdiction of the United States over lands or interests under his control in that State.

This would simply permit local authorities to perform certain functions such as fire protection and law enforcement at or near military installations where they now have no authority. Heretofore, this question had been handled on an installation by installation basis and required legislation in each instance.

The House recedes and agrees to inclusion of this section.

Section 614

Section 614 was added by the Senate to permit the exchange of approximately 191 acres of land in the vicinity of Fort Eustis, Virginia. After much discussion and with the knowledge that the Government will gain considerably by this exchange, the House recedes and agrees to the inclusion of this provision.

L. MENDEL RIVERS,
G. ELLIOTT HAGAN,
CHARLES H. WILSON,
BILL NICHOLS,
W. C. DANIEL,
WILLIAM G. BRAY,
DONALD D. CLANCY,
CARLETON J. KING,
ED FOREMAN,
Managers on the Part of the House.

AGRICULTURAL ACT OF 1970

Mr. POAGE submitted the following conference report and statement on the bill (H.R. 18546) to establish improved programs for the benefit of producers and consumers of dairy products, wool, wheat, feed grains, cotton, and other commodities, to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 91–1594)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 18546) to establish improved programs for the benefit of producers and consumers of dairy products, wool, wheat, feed grains, cotton, and other commodities, to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Agricultural Act of 1970".

TITLE I—PAYMENT LIMITATION

SEC. 101. Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under each of the annual programs established by titles IV, V, and VI of this Act for the 1971, 1972, or 1973 crop of the commodity shall not exceed $55,000.

(2) The term "payments" as used in this section includes price-support payments, set-aside payments, diversion payments, public access payments, and marketing certificates, but does not include loans or purchases.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term "person" and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided,* That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary.

TITLE II—DAIRY

DAIRY BASE PLANS

SEC. 201. (a) The Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by striking in subparagraph (B) of subsection 8c(5) all that part of said subparagraph (B) which follows the comma at the end of clause (c) and inserting in lieu thereof the following: "(d) a further adjustment to encourage seasonal adjustments in the production of milk through equitable apportionment of the total value of the milk purchased by any handler, or by all handlers, among producers on the basis of their marketings of milk during a representative period of time, which need not be limited to one year; (e) a provision providing for the accumulation and disbursement of a fund to encourage seasonal adjustments in the production of milk may be included in an order; and (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk, which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of one to three years, which will be automatically updated each year. In the event a producer holding a base allocated under this clause (f) shall reduce his marketings, such reduction shall not adversely affect his history of production and marketing for the determination of future bases, or future updating of bases, except that an order may provide that, if a producer reduces his marketings below his base allocation in any one or more use classifications designated in the order, the amount of any such reduction shall be taken into account in determining future bases, or future updating of bases. Bases allocated to producers under this clause (f) may be transferable under an order on such terms and conditions, including those which will prevent bases taking on an unreasonable value, as are prescribed in the order by the Secretary of Agriculture. Provisions, shall be made in the order for the allocation of bases under this clause (f)—

"(i) for the alleviation of hardship and inequity among producers; and

"(ii) for providing bases for dairy farmers not delivering milk as producers under the order upon becoming producers under the order who did not produce milk during any part of the representative period and these new producers shall within ninety days after the first regular delivery of milk at the price for the lowest use classification specified in such order be allocated a base which the Secretary determines proper after considering supply and demand conditions, the development of orderly and efficient marketing conditions and to the respective interests of producers under the order, all other dairy farmers and the consuming public. Producer bases so allocated shall for a period of not more than three years be reduced by not more than 20 per centum; and

"(iii) dairy farmers not delivering milk as producers under the order upon becoming producers under the order by reason of a plant to which they are making deliveries becoming a pool plant under the order, by amendment or otherwise, shall be provided bases with respect to milk delivered under the order based on their past deliveries of milk on the same basis as other producers under the order; and

"(iv) such order may include such additional provisions as the Secretary deems appropriate in regard to the reentry of producers who have previously discontinued their dairy farm enterprise or transferred bases authorized under this clause (f); and

"(v) notwithstanding any other provision of this Act, dairy farmers not delivering milk as producers under the order, upon becoming producers under the order, shall within ninety days be provided with respect to milk delivered under the order, allocations based on their past deliveries of milk during the representative period from the production facilities from which they are delivering milk under the order on the same basis as producers under the order on the effective date of order provisions authorized under this clause (f): *Provided,* That bases shall be allocated only to a producer marketing milk from the production facilities from which he marketed milk during the representative period, except that in no event shall such allocation of base exceed the amount of milk actually delivered under such order.

The assignment of other source milk to various use classes shall be made without regard to whether an order contains provisions authorized under this clause (f). In the case of any producer who during any accounting period delivers a portion of his milk to persons not fully regulated by the order, provision shall be made for reducing the allocation of, or payment to be received by, any such producer under this clause (f) to compensate for any marketings of milk to such other persons for such period or periods as necessary to insure equitable participation in marketings among all producers. Notwithstanding the provisions of section 8c(12) and the last sentence of section 8c(19) of this Act, order provisions under this clause (f) shall not be effective in any marketing order unless separately approved by producers in a referendum in which each individual producer shall have one vote and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subparagraph 8c(16)(B). Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order."

(b) The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this Act as it was prior thereto.

(c) Nothing in subsection (a) of this section 201 shall be construed as invalidating any class I base plan provisions of any marketing order previously issued by the Secretary of Agriculture pursuant to authority contained in the Food and Agriculture Act of 1965 (79 Stat. 1187), but such provisions are expressly ratified, legalized, and confirmed and may be extended through and including December 31, 1971.

(d) It is not intended that existing law be in any way altered, rescinded, or amended with respect to section 8c(5)(G) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and such section 8c(5)(G) is fully reaffirmed.

(e) The provisions of this section shall not be effective after December 31, 1973 except with respect to orders providing for Class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1976.

SUSPENSION OF BUTTERFAT SUPPORT PROGRAM

SEC. 202. Effective only with respect to the period beginning April 1, 1971, and ending March 31, 1974—

(a) The first sentence of section 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446), is amended by striking the words "milk, butterfat, and the products of milk and butterfat" and inserting in lieu thereof the words "and milk".

(b) Paragraph (c) of section 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446(c)), is amended to read as follows:

"(c) The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply. Such price support shall be provided through purchases of milk and the products of milk."

TRANSFER OF DAIRY PRODUCTS TO THE MILITARY AND TO VETERANS HOSPITALS

SEC. 203. Section 202 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446a), is amended by changing "December 31, 1970" to read "December 31, 1973" both places it appears therein.

DAIRY INDEMNITY PROGRAM

SEC. 204. (a) Section 3 of the Act of August 13, 1968 (Public Law 90-484; 82 Stat. 750), is amended by striking out the word "June 30, 1970.", and inserting in lieu thereof the word "June 30, 1973.".

(b) The first sentence of section 1 of said Act is amended by inserting, "and manufacturers of dairy products who have been directed since the date of enactment of the Agricultural Act of 1970 to remove their dairy products," after "milk", and the second sentence is revised to read: "Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.".

TITLE III—WOOL

SEC. 301. The National Wool Act of 1954, as amended, is amended as follows:

(1) Designate the first two sentences of section 703 as subsection "(a)", and, in the second sentence, delete "1970" and substitute "1973".

(2) In the third sentence of section 703, delete the portion beginning with "The support price for shorn wool shall be" and ending with *"Provided further,* That the" and substitute "The", designate the third sentence as subsection "(b)", change the period at the end thereof to a colon and add the following: *"Provided,* That for the three marketing years beginning January 1, 1971, and ending December 31, 1973, the support price for shorn wool shall be 72 cents per pound, grease basis.".

(3) Designate the fourth and fifth sentences of section 703 as subsection "(c)", change the period at the end of the fifth sentence to a colon and add the following:

"Provided, That for the three marketing years beginning January 1, 1971, and ending December 31, 1973, the support price for mohair shall be 80.2 cents per pound, grease basis.".

(4) Designate the sixth sentence of section 703 as subsection "(d)".

(5) Designate the last sentence of section 703 as subsection "(e)".

TITLE IV—WHEAT

SEC. 401. Effective only with respect to the 1971, 1972, and 1973 crops of wheat, section 107 of the Agricultural Act of 1949, as amended, is further amended to read as follows:

"SEC. 107. Nothwithstanding any other provision of law—

"(a) Loans and purchases on each crop of wheat shall be made available at such level as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains: *Provided,* That in no event shall such level be in excess of the parity price for wheat or less than $1.25 per bushel.

"(b) If a set-side program is in effect for any crop of wheat under section 379b(c) of the Agricultural Adjustment Act of 1938, as amended, certificates, loans and purchases shall be made available on such crop only to producers who comply with the provisions of such program."

SEC. 402. Effective only with respect to the 1971, 1972, and 1973 crops of wheat sections 379b and 379c of the Agricultural Adjustment Act of 1938, as amended, are further amended to read as follows:

"SEC. 379(b). (a) The Secretary shall provide for the issuance of wheat marketing certificates for the purpose of enabling producers on any farm for which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the face value of such certificates. The face value per bushel of domestic marketing certificates for the 1971, 1972, and 1973 crops of wheat shall be in such amount as, together with the national average market price received by farmers during the first five months of the marketing year for such crop, the Secretary determines will be equal to the parity price for wheat as of the beginning of the marketing year for the crop.

"(b) The domestic wheat marketing certificates shall be made available for a farm on the number of bushels determined by multiplying the domestic allotment for the farm for the crop in which such certificates relate by the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

"(c)(1) The Secretary shall provide for a set-aside of cropland if he determines that the total supply of wheat or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and certificates on wheat, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the domestic wheat allotment for the farm as may be specified by the Secretary and will be estimated by the Secretary to result in a set-aside not in excess of 13.3 million acres in the case of the 1971 crop, or 15 million acres in the case of the 1972 or 1973 crop, plus (ii) the acreage of cropland on the farm devoted in preceding years to soil-conserving uses, as determined by the Secretary. The Secretary is authorized for the 1971, 1972, and 1973 crops to limit the acreage planted to wheat on the farm to such percentage of the domestic wheat allotment as he determines necessary to provide an orderly transition to the program provided for under this section. Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

"(2) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the certificates authorized in subsection (b), available to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (c)(1). The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

"(3) The wheat program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(4) If the operator of the farm desires to participate in the program formulated under this subsection (c), he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on wheat, marketing certificates, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (c)(4) if he determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

"(d) The Secretary shall provide for the sharing of certificates issued and of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

"(e) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section preclude the issuance of certificates and the making of loans, purchases, and payments, the Secretary may, nevertheless, issue such certificates and make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

"(f) The Secretary shall advance to producers, as soon as practicable after July 1 of the year in which the crop is harvested, an amount equal to 75 per centum of the Secretary's estimate of the face value of certificates to be issued with respect to such crop and such advance shall be repaid through the withholding of certificates for such crop having a face value equal to such advance. If the face value of the certificates as finally determined in less than the advance, the difference shall not be required to be repaid.

"(g) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this title.

"(h) Marketing certificates issued under this Act and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

"(i) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"SEC. 379c. (a)(1) The farm domestic allotment for each crop of wheat shall be determined as provided in this section. The Secretary shall proclaim a national domestic allotment for the 1972 and 1973 crops of wheat not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. The national domestic allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the estimated national yield will result in marketing certificates being issued to producers participating in the program in an amount equal to the amount of wheat which he estimates will be used for food products for consumption in the United States during the marketing year for the crop (not less than 535 million bushels). The national domestic allotment for any crop of wheat shall be apportioned by the Secretary among the States on the basis of the apportionment to each State of the national domestic allotment for the preceding crop adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, the estimated decrease in farm domestic allotments, and other relevant factors.

"(2) The State domestic acreage allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection, shall be apportioned by the Secretary among the counties in the State, on the basis of the apportionment to each such county of the domestic wheat allotment for the preceding crop, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county taking into consideration established crop-rotation practices, the estimated decrease in farm domestic allotments, and other relevant factors.

"(3) The farm domestic allotment for each crop of wheat shall be determined by apportioning the county domestic wheat allotment among farms in the county which had a domestic wheat allotment for the preceding crop on the basis of such allotment, adjusted to reflect established crop-rotation practices and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment. The farm domestic allotment for the 1971 crop of wheat shall be determined

by multiplying the farm acreage allotment established for the 1971 crop by a national allocation percentage established in the same manner as for the 1970 crop, but which will result in the allotment of a total of not less than 19.7 million acres and will be based on a wheat marketing allocation of not less than 535 million bushels. Notwithstanding any other provision of this subsection, the farm domestic allotment shall be adjusted downward to the extent required by subsection (b).

"(4) Not to exceed 1 per centum of the State domestic allotment for any crop may be apportioned to farms for which there was no domestic allotment for the preceding crop on the basis of the following factors: suitability of the land for production of wheat, the past experience of the farm operator in the production of wheat, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of wheat on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable farm domestic allotments. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after the date of enactment of the set-aside program for wheat.

"(5) The planting on a farm of wheat of any crop for which no farm domestic allotment was established shall not make the farm eligible for a domestic allotment under subsection (a)(3) nor shall such farm by reason of such planting be considered ineligible for an allotment under subsection (a)(4).

"(6) The Secretary may make such adjustments in acreage under this Act as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm.

"(b)(1) If for any crop the total acreage of wheat planted on a farm is less than the farm domestic allotment, the farm domestic allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm domestic allotment, but such reduction shall not exceed 20 percentum of the farm domestic allotment for the preceding crop. If no acreage has been planted to wheat for three consecutive crop years on any farm which has a domestic allotment, such farm shall lose its domestic allotment. Producers on any farm who have planted to wheat not less than 90 per centum of the domestic allotment for the farm shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to wheat because of drought, flood, or other natural disaster or a condition beyond the control of the producer shall be considered to be an acreage of wheat planted for harvest. For the purpose of this subsection, the Secretary may permit producers of wheat to have acreage devoted to soybeans or to feed grains for which there is a set-aside program in effect considered as devoted to the production of wheat to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

"(2) Notwithstanding the provisions of subsection (b)(1), no farm domestic allotment shall be reduced or lost through failure to plant the farm domestic allotment, if the producer elects not to receive certificates for the portion of the farm domestic allotment not planted, to which he would otherwise be entitled under the provisions of this Act."

SEC. 403. Effective only with respect to the marketing years beginning July 1, 1971, July 1, 1972, and July 1, 1973, the Agricultural Adjustment Act of 1938, as amended, is further amended as follows:

(1) by deleting in the first sentence of section 379d(b) the words "During any marketing year for which a wheat marketing allocation program is in effect," and substituting "During each marketing year,";

(2) by adding at the end of section 379d (b) the following: "Notwithstanding the foregoing, the Secretary is authorized, to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974.

(3) by adding at the end of section 379e the following: "Notwithstanding any other provision of this Act, Commodity Credit Corporation shall sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but in determining the cost to processors the face value shall be 75 cents per bushel."

SEC. 404. Effective only with respect to the 1971, 1972, and 1973 crops, the Agricultural Adjustment Act of 1938, as amended, is further amended as follows:

(1) sections 331, 332, 335, 336, 338, and 339 shall not be applicable to the 1971, 1972, and 1973 crops of wheat;

(2) sections 333 and 334 shall not be applicable to the 1972 and 1973 crops of wheat;

(3) by adding in section 378 a new subsection (e) to read as follows:

"(e) The term 'allotment' as used in this section includes the domestic allotment for wheat."

(4) by adding at the end of section 379 the following sentence: "The term 'acreage allotments' as used in this section includes the domestic allotment for wheat." and

(5) by adding in the first sentence of section 385 after the words "parity payment," the words "payments (including certificates) under the wheat and feed grain set-aside programs,".

SEC. 405. Effective only with respect to the 1971, 1972, and 1973 crops of wheat, section 706, Public Law 89-321 (79 Stat. 1210), is amended as follows:

(1) by adding in the first sentence after the words "the Soil Conservation and Domestic Allotment Act, as amended," the words "or the Agricultural Act of 1949, as amended,"; and

(2) by adding at the end thereof the following sentence: "The term 'acreage allotments' as used in this section includes the domestic allotment for wheat."

SEC. 406. Public Law 74, Seventy-seventh Congress (68 Stat. 905), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1971, 1972, and 1973.

SEC. 407. The amount of any wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended, prior to the 1971 crop of wheat may be reduced by the amount by which the actual total production of the 1971, 1972, or 1973 crop on the farm is less than the number of bushels determined by multiplying three times the domestic allotment for such crop on the farm by the yield established for the farm for the purpose of issuance of domestic marketing certificates. The provisions of such section shall continue to apply to the wheat so stored to the extent not inconsistent therewith.

SEC. 408. Effective only with respect to the 1971, 1972, and 1973 crops of the commodity the Agricultural Act of 1949 as amended is further amended by adding in section 408 a new subsection (k) as follows:

"REFERENCES TO TERMS MADE APPLICABLE TO WHEAT AND FEED GRAINS

"(k) References made in sections 402, 403, 406, and 416 to the terms 'support price,' 'level of support,' and 'level of price support' shall be considered to apply as well to the level of loans and purchases for wheat and feed grains under this Act; and references made to the terms 'price support,' 'price support operations,' and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to the loan and purchase operations for wheat and feed grains under this Act."

SEC. 409. Section 407 of the Agricultural Act of 1949, as amended, is further amended effective only with respect to the marketing years for the 1971, 1972, and 1973 crops of the commodity as follows:

(1) by deleting in the third sentence the language following the third colon and substituting the following: *"Provided,* That the Corporation shall not sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye, respectively, at less than 115 per centum of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate, plus reasonable carrying charges."

(2) by deleting in the fifth sentence "current basic county support rate including the value of any applicable price-support payment in kind (or a comparable price if there is no current basic county support rate)" and substituting "current basic county loan rate (or a comparable price if there is no current basic county loan rate)", and

(3) by deleting in the seventh sentence ", but in no event shall the purchase price exceed the then current support price for such commodities." and substituting "or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for such commodities for unrestricted use."

SEC. 410. Notwithstanding any other provision of law, for the 1971, 1972, and 1973 crops of wheat, feed grains and cotton, if in any year at least 55 per centum of the cropland acreage on an established summer fallow farm is devoted to a summer fallow use, no further acreage shall be required to be set aside under the wheat, feed grain and cotton programs for such year.

TITLE V—FEED GRAINS

SEC. 501. Effective only with respect to the 1971, 1972, and 1973 crops of feed grains, section 105 of the Agricultural Act of 1949, as amended, is further amended to read as follows:

"SEC. 105. Notwithstanding any other provision of law—

"(a)(1) The Secretary shall make available to producers loans and purchases on each crop of corn at such level, not less than $1.00 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States.

"(2) The Secertary shall make available to producers loans and purchases on each crop of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and the other factors specified in section 401(b), and on each crop of grain sorghums at such level as the Secertary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.

"(b)(1) In addition, the Secretary shall make available to producers payments for

each crop of corn, grain sorghums, and, if designated by the Secretary, barley. The payment rate for corn shall be at such rate as, together with the national average market price received by farmers for corn during the first five months of the marketing year for the crop, the Secretary determines will not be less than (A) $1.35 per bushel, or (B) 70 per centum of the parity price of corn as of the beginning of the marketing year, whichever is the greater. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. Notwithstanding the foregoing, the rate of payment for the 1973 crop shall not be such as will result in a total amount of payments which the Secretary estimates will be made pursuant to this subsection with respect to the 1973 crop of feed grains above the total amount of payments made pursuant to this subsection with respect to the 1972 crop of feed grains by reason of the level specified in clause (B) being fixed above 68 per centum of the parity price for corn.

"(2) The payments with respect to a farm shall be made available on 50 per centum of the feed grain base for the farm and shall be computed on the basis of the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield.

"(3) If for any crop the total acreage on a farm planted to feed grains included in the program formulated under this subsection is less than the portion of the feed grain base for the farm on which payments are available under this subsection, the feed grain base for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than such portion of the feed grain base for the farm, but such reduction shall not exceed 20 per centum of the feed grain base. If no acreage has been planted to such feed grains for three consecutive crop years on any farm which has a feed grain base, such farm shall lose its feed grain base: *Provided,* That no farm feed grain base shall be reduced or lost through failure to plant, if the producer elects not to receive payment for such portion of the farm feed grain base not planted, to which he would otherwise be entitled under the provisions of this Act. Any such acres eliminated from any farm shall be assigned to a national pool for the adjustment of feed grain bases as provided for in subsection (e)(2). Producers on any farm who have planted to such feed grains not less than 90 per centum of the portion of the feed grain base on which payments are made available shall be considered to have planted an acreage equal to 100 per centum of such portion. An acreage on the farm which the Secretary determines was not planted to such feed grains because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of feed grains planted for harvest. For the purpose of this paragraph, the Secretary may permit producers of feed grains to have acreage devoted to soybeans or to wheat considered as devoted to the production of such feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the feed grain or soybean program.

"(c)(1) The Secretary shall provide for a set-aside of cropland if he determines that the total supply of feed grains or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices of feed grains and to meet a national emergency. If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the feed grain base for the farm as may be specified by the Secretary, plus (ii) the acreage of cropland on the farm devoted in preceding years to soil-conserving uses, as determined by the Secretary. The Secretary is authorized for the 1971, 1972, and 1973 crops to limit the acreage planted to feed grains on the farm to such percentage of the feed grain base as he determines necessary to provide an orderly transition to the program provided for under this section. If for any crop, the producer so requests for purposes of having acreage devoted to the production of wheat considered as devoted to the production of feed grains, pursuant to the provisions of section 328 of the Food and Agriculture Act of 1962, the term 'feed grains' shall include oats and rye, and barley, if not designated by the Secretary as provided above. Such section 328 shall be effective in 1971, 1972, 1973 to the same extent as it would be if a diversion program were in effect for feed grains during each of such years. Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

"(2) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (b), to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (c)(1). The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

"(3) The feed grain program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(4) If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on feed grains included in the set-aside program and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (c)(4) if he determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

"(d) The Secretary shall provide for the sharing of payments under this section among producers on the farm on a fair and equitable basis.

"(e)(1) For the purpose of this section, the feed grain base shall be the average acreage devoted on the farm to corn, grain sorghums and, if designated by the Secretary, barley in 1959 and 1960.

"(2) The Secretary may make such adjustments in acreage under this section as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm. The Secretary shall, upon the request of a majority of the State committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, adjust the feed grain bases for farms within any State or county in order to establish fair and equitable feed grain bases for farms within such State or county: *Provided,* That except for acreage provided for in subsection (b)(3), adjustments made pursuant to this sentence shall not increase the total State feed grain acreage. The Secretary is authorized to draw upon the acreage pool provided for in subsection (b)(3) in making such adjustments. Notwithstanding any other provision of this subsection, the feed grain base for the farm shall be adjusted downward to the extent required by subsection (b)(3).

"(3) Notwithstanding any other provision of this subsection not to exceed 1 per centum of the estimated total feed grain bases for all farms in a State for any year may be reserved from the feed grain bases established for farms in the State for apportionment to farms on which there were no acreages devoted to feed grains in the crop years 1959 and 1960 on the basis of the following factors: suitability of the land for the production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain bases. No part of such reserve shall be allocated to a farm to reflect new cropland brought into production after the date of enactment of the set-aside program for feed grains. An acreage equal to the feed grain base so established for each farm shall be deemed to have been devoted to feed grains on the farm in each of the crop years 1959 and 1960 for purposes of this section.

"(f) In any case, in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he deter-

mines to be equitable in relation to the seriousness of the default.

"(g) The Secretary shall make a preliminary payment to producers, as soon as practicable after July 1 of the year in which the crop is harvested, at a rate equal to 32 cents per bushel for corn, with comparable rates for grain sorghums and, if designated by the Secretary, barley, and the payment so made shall not be reduced if the rate as finally determined is less than the rate of the preliminary payment. If the set-aside in effect under subsection (c) is less than 20 per centum of the feed grain base, the preliminary payment rate under this subsection shall be reduced proportionately.

"(h) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this section.

"(i) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation."

TITLE VI—COTTON

SEC. 601. The Agricultural Adjustment Act of 1938, as amended, is amended effective beginning with the 1971 crop of upland cotton as follows:

(1) Sections 342, 343, 344, 345, 346, and 377 of the Act shall not be applicable to upland cotton of the 1971, 1972, and 1973 crops.

(2) A new section 342a is added to read as follows:

"SEC. 342a. The Secretary shall, not later than November 15, of the calendar years 1970, 1971, and 1972, proclaim a national cotton production goal for the 1971 and subsequent crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security."

(3) Effective only with respect to the 1971, 1972, and 1973 crops, section 344a is amended as follows:

(1) subsection (a) is amended to read as follows:

"(a) Notwithstanding any other provision of law, the Secretary shall (1) permit the owner and operator of any farm for which a farm base acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm for which a farm base acreage allotment is established (other than pursuant to section 350(e)(1)(A)) for transfer to such farm; and (2) permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him: *Provided*, That any temporary transfer of farm acreage allotment by lease or by owner approved by the county committee to take effect during the period 1966 through 1970 for a term extending beyond 1970 shall be approved pro rata on the basis of the farm base acreage allotment for the farm from which the transfer is made, but no temporary transfer by lease entered into after March 15, 1970, shall be approved for 1974 and subsequent crops."

(2) subdivisions (ii), (iv), (v), and (vi) of subsection (b), the last sentence of subsection (b) and subsections (e) and (h) shall not be applicable to the 1971, 1972, and 1973 crops: *Provided*, That no farm allotment may be sold or leased for transfer to a farm in another county unless the Agricultural Stabilization and Conservation Committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for the county from which such transfers are being made (1) finds that a demand for such acreage allotments no longer exists in such county and (2) approves any transfers of allotments to farms outside such county.

(4) Section 350 of the Act is amended to read as follows:

"SEC. 350. (a) The Secretary shall establish for each of the 1971, 1972, and 1973 crops of upland cotton a national base acreage allotment. Such national base acreage allotment shall be announced not later than November 15 of the calendar year preceding the year for which the national base acreage allotment is to be effective. The national base acreage allotment for any crop of cotton shall be the number of acres which the Secretary determines on the basis of the expected national yield will produce an amount of cotton equal to the estimated domestic consumption of cotton (standard bales of four hundred and eighty pounds net weight) for the marketing year beginning in the year in which the crop is to be produced, plus not to exceed 25 per centum thereof if the Secretary, taking into consideration other actions he may take under the Agricultural Act of 1970, determines that such additional amount is necessary to provide for a production which will equal the national cotton production goal, except that such national base acreage allotment shall be eleven million five hundred thousand acres for the 1971 crop and in the case of the 1972 and 1973 crops shall be in such amount as the Secretary determines necessary to maintain adequate supplies.

"(b) The national base acreage allotment for each crop of upland cotton shall be apportioned by the Secretary to the States on the basis of the acreage planted (including acreage regarded as having been planted) to upland cotton within the farm acreage allotment or the farm base acreage allotment, whichever is in effect, during the five calendar years immediately preceding the calendar year in which the national cotton production goal is proclaimed, with adjustments for abnormal weather conditions or other natural disaster during such period.

"(c) The State base acreage allotment for each crop of upland cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsection (b): *Provided*, That the State committee may reserve not to exceed 2 per centum of its State acreage allotment which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardships.

"(d) The Secretary shall adjust the apportionment base for each county as may be necessary because of transfers of allotments across county lines.

"(e)(1) The county base acreage allotment for the 1971 crop shall be apportioned to old cotton farms in the county on the basis of the domestic acreage allotment established for the farm for the 1970 crop. For the 1972 and each subsequent crop of upland cotton the county base acreage allotment shall be apportioned to old cotton farms in the county on the basis of the farm base acreage allotment established for such farm for the preceding year. The county committee may reserve not in excess of 10 per centum of the county allotment which, in addition to the acreage made available under the proviso in subsection (c), shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton, crop-rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm allotments established under this paragraph so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm allotments to correct inequities and to prevent hardships. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after the date of enactment of the Agricultural Act of 1970.

"(2) If for any crop the total acreage of cotton planted on a farm is less than the farm base acreage allotment, the farm base acreage allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm base acreage allotment, but such reduction shall not exceed 20 per centum of the farm base acreage allotment for the preceding crop. If not less than 90 per centum of the base acreage allotment for the farm is planted to cotton, the farm shall be considered to have an acreage planted to cotton equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. For the purpose of this paragraph, the Secretary shall, in the event producers of wheat or feed grains are permitted to do so, permit producers of cotton to have acreage devoted to soybeans, wheat, or feed grains considered as devoted to the production of cotton to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the cotton or soybean program.

"(3) If no acreage is planted to cotton for any three consecutive crop years on any farm which had a farm base acreage allotment for such years, such farm shall lose its base acreage allotment.

"(f) Effective for the 1971, 1972, and 1973 crops, any part of any farm base acreage allotment on which upland cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the farm base acreage allotment for such farm and may be reapportioned by the county committee to other farms in the same county receiving farm base acreage allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of upland cotton, land, labor, equipment available for the production of upland cotton, crop rotation practices, and soil and other physical facilities affecting the production of upland cotton. If all of the acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used to make adjustments in farm base acreage allotments, for other farms in the State adversely affected by abnormal conditions affecting plantings or to correct inequities or to prevent hardship. Any farm base acreage allotment released

under this provision shall be regarded for the purpose of establishing future farm base acreage allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred: *Provided,* That notwithstanding any other provision of law, any part of any farm base acreage allotment for any crop year may be permanently released in writing to the county committee by the owner and operator of the farm and reapportioned as provided herein. Acreage released under this subsection shall be credited to the State in determining future allotments.

"(g) Any farm receiving any base acreage allotment through release and reapportionment or sale, lease, or transfer shall, as a condition to the right to receive such allotment, comply with the set-aside requirements of section 103(e)(4) of the Agricultural Act of 1949, as amended, applicable to such acreage as determined by the Secretary.

"(h) Notwithstanding any other provision of this Act, if the Secretary determines for any year that because of drought, flood, other natural disaster, or a condition beyond the control of the producer a portion of the farm base acreage allotment in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of such cotton acreage for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of upland cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm base acreage allotment transferred under this subsection shall be regarded as planted to upland cotton on the farm and in the county and State from which transfer is made for purposes of establishing future farm, county and State allotments."

SEC. 602. Effective beginning with the 1971 crop of upland cotton, section 103 of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new subsection (e) reading as follows:

"(e)(1) The Secretary shall upon presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days make available for the 1971, 1972, and 1973 crops of upland cotton to cooperators non-recourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect for Middling one-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States 90 per centum of the average world price for such cotton for the two-year period ending July 31 in the year in which the loan level is announced, except that to prevent the establishment of such a loan level as would adversely affect the competitive position of United States upland cotton, following one or more years of excessively high prices, the Secretary shall make such adjustments as are necessary to keep United States upland cotton competitive and to retain an adequate share of the world market for such cotton. The average world price for such cotton for such preceding two-year period shall be determined by the Secretary annually pursuant to a published regulation which shall specify the procedures and the factors to be used by the Secretary in making the world price determination. The loan level for any crop of upland cotton shall be determined and announced not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective. Notwithstanding the foregoing, if the carryover of upland cotton as of the beginning of the marketing year for the 1972 or 1973 crop exceeds 7.2 million bales, producers on any farm harvesting cotton of such crop from an acreage in excess of the base acreage allotment for such farm shall be entitled to loans and purchases only on an amount of the cotton of such crop produced on such farm determined by multiplying the yield used in computing payments for such farm by the base acreage allotment for such farm.

"(2) In addition, the Secretary shall make available to cooperators payments on the 1971, 1972, and 1973 crops of upland cotton. The payments shall be at such rate per pound as, together with the national average market price for Middling one-inch upland cotton (micronaire 3.5 through 4.9) in the designated spot markets during the first five months of the marketing year for the crop, the Secretary determines will be equal to the greater of (i) 35 cents, or (ii) 65 per centum of the parity price for upland cotton as of the beginning of the marketing year, except that the rate of payment so determined for the 1972 crop and the 1973 crop, respectively, shall be adjusted by multiplying the amount thereof by the ratio of (i) the national base acreage allotment for the 1971 crop to (ii) the national base acreage allotment for the crop for which the rate is being determined: *Provided,* That the payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 350(f)), (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3). The Secretary shall make a preliminary payment to producers, as soon as practicable after July 1 of the year in which the crop is harvested, at a rate equal to 15 cents per pound, and the payment so made shall not be reduced if the rate as finally determined is less than the rate of the preliminary payment.

"(3) Such payments shall be made available for a farm on the quantity of upland cotton determined by multiplying the acreage planted within the farm base acreage allotment for the farm for the crop by the average yield established for the farm: *Provided,* That payments shall be made on any farm planting not less than 90 per centum of the farm base acreage allotment on the basis of the entire amount of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to cotton because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be considered to be an acreage planted to cotton. The average yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years, except that the 1970 farm projected yield shall be substituted in lieu of the actual yields for the years 1968 and 1969: *Provided,* That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster: *Provided, further,* That the average yield established for the farm for any year shall not be less than the yield used in making payments for the preceding year if the total cotton production on the farm in such preceding year is not less than the yield used in making payments for the farm for such preceding year times the farm base acreage allotment for such preceding year (for the 1970 crop, the farm domestic allotment).

"(4)(A) The Secretary shall provide for a set aside of cropland if he determines that the total supply of agricultural commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph (4), then as a condition of eligibility for loans and payments on upland cotton the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the farm base acreage allotment for the farm as may be specified by the Secretary (not to exceed 28 per centum of the farm base acreage allotment), plus (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. If the Secretary determines prior to the planting season for such crop that the carryover of upland cotton as of the beginning of the marketing year for the 1972 or 1973 crop will exceed 7.2 million bales, the Secretary is authorized for such crop to limit the acreage planted to upland cotton on the farm in excess of the farm base acreage allotment to such percentage of the farm base acreage allotment as he determines necessary to reduce the total supply to a reasonable level. Grazing shall not be permitted during any of the five principal months of the normal growing season as determined by the county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, and subject to this limitation (1) the Secretary shall permit producers to plant and graze on the set-aside acreage sweet sorghum, and (2) the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago, ovato, flaxseed, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

(B) To assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in subsection (e)(2), to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under subsection (e)(4)(A). The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(5) The upland cotton program formulated under this section shall require the producer to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(6) If the operator of the farm desires to participate in the program formulated under this section, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Loans and purchases on up-

land cotton and payments under this section shall be made available to the producers on such farm only if producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producer, terminate or modify any such agreement entered into pursuant to this subsection (e)(6) if he determines such action necessary because of an emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of agricultural commodities."

"(7) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing on a fair and equitable basis, in payments under this section.

"(8) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

"(9) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this Title.

"(10) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(11) The provisions of subsection 8(g) of the Soil Conservation and Domestic Allotment Act, as amended (relating to assignment of payments), shall apply to payments under this subsection."

SEC. 603. Effective only with respect to the period beginning August 1, 1971, and ending July 31, 1974, the tenth sentence of section 407 of the Agricultural Act of 1949, as amended, is amended by deleting all of that sentence from the beginning to and including the words "110 per centum of the loan rate, and (2)" and inserting in lieu thereof the following: "Notwithstanding any other provision of law, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 110 per centum of the loan rate for Middling one inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges and (2)".

SEC. 604. Section 408(b) of the Agricultural Act of 1949, as amended, is amended by inserting a colon in lieu of the period at the end of the first sentence and adding the following: *"And provided,* That for the 1971, 1972, and 1973 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 103(e)."

SEC. 605. Effective only with respect to the 1971, 1972, and 1973 crops the Agricultural Adjustment Act of 1938, as amended, is further amended as follows:

(1) By adding in section 378 a new subsection (d) to read as follows:

"(d) The term 'allotment' as used in this section includes the farm base acreage allotment for upland cotton."

(2) By adding at the end of section 379 the following sentence: "The term 'acreage allotments' as used in this section includes the farm base acreage allotments for upland cotton."

(3) By adding in the first sentence of section 385 after the words "parity payment," the words "payments under the cotton set-aside program,".

SEC. 606. Effective only with respect to the 1971, 1972, and 1973 crops, section 706, Public Law 89-321 (79 Stat. 1210) is amended by adding at the end thereof the following sentence: "The term 'acreage allotments' as used in this section includes the farm base acreage allotments for upland cotton."

SEC. 607. Effective only with respect to the 1971, 1972, and 1973 crops of the commodity, the Agricultural Act of 1949, as amended, is further amended by adding in section 408 a new subsection (1) as follows:

"REFERENCE TO TERMS MADE APPLICABLE TO UPLAND COTTON

"(1) References made in sections 402, 403, 406, and 416 to the terms 'support price,' 'level of support,' and 'level of price support' shall be considered to apply as well to the level of loans and purchases for upland cotton under this Act; and references made to the terms 'price support,' 'price support operations,' and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to the loan and purchase operations for upland cotton under this Act."

SEC. 608. Section 203 of the Agricultural Act of 1949, as amended, shall not be applicable to the 1971, 1972, and 1973 crops.

SEC. 609. The Secretary shall file annually with the President for transmission to the Congress a complete report of the programs carried out under this title. Such report shall include the amount of funds spent, the purposes for which such funds were spent, the basis for participation in such programs in the various States, and an appraisal of the effectiveness of the programs.

SEC. 610. The Commodity Credit Corporation, in furtherance of its powers and duties under subsections (e) and (f) of section 5 of the Commodity Credit Corporation Charter Act, shall, through the Cotton Board established under the Cotton Research and Promotion Act, and upon approval of the Secretary, enter into agreements with the contracting organization specified pursuant to section 7(g) of that Act for the conduct, in domestic and foreign markets, of market development, research or sales promotion programs and programs to aid in the development of new and additional markets, marketing facilities and uses for cotton and cotton products, including programs to facilitate the utilization and commercial application of research findings. Each year the amount available for such agreements shall be that portion of the funds (not exceeding $10,000,000) authorized to be made available to cooperators under the cotton program for such year but which is not paid to producers because of a statutory limitation on the amounts of such funds payable to any producer. The Secretary is authorized to deduct from funds available for payments to producers under section 103 of the Agricultural Act of 1949, as amended, on each of the 1972 and 1973 crops of upland cotton such additional sums for use as specified above (not exceeding $10,000,000 for each such crop) as he determines desirable; and the final rate of payment provided in section 103 if higher than the rate of the preliminary payment provided in such section shall be reduced to the extent necessary to defray such costs. No funds made available under this section shall be used for the purpose of influencing legislative action or general farm policy with respect to cotton.

TITLE VII—EXTENSION OF TITLES I AND II OF PUBLIC LAW 480

SEC. 701. Section 409 of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 83-480; 7 U.S.C. 1736c), is amended by striking the words "December 31, 1970." and inserting in lieu thereof the words "December 31, 1973.".

SEC. 702. Section 104 of such Act is amended by inserting before the comma at the end of paragraph (1) of the first proviso following subsection (k) the following: ", and in the case of currencies to be used for the purposes specified in paragraph (2) of subsection (b) the Appropriation Act may specifically authorize the use of such currencies and shall not require the appropriation of dollars for the purchase of such currencies".

TITLE VIII—GENERAL AND MISCELLANEOUS

LONG-TERM LAND RETIREMENT

SEC. 801. Section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended, is amended—

(1) By inserting "(A)" after "Sec. 16(e)(1)".

(2) By inserting in the first sentence after "For the purpose of promoting the conservation and economic use of land" the following: ", and of assisting farmers who because of advanced age, poor health, or other reasons, desire to retire from farming but wish to continue living on their farms,".

(3) By inserting in the first sentence after "is authorized to enter into agreements," the following: "during the calendar years 1971, 1972, and 1973,".

(4) By striking out the proviso at the end of paragraph (1) and inserting in lieu thereof the following: "*Provided,* That any agreements entered into under this section after July 1, 1970, shall prohibit grazing of such acreage.".

(5) By inserting a new subparagraph (B) at the end of paragraph (1) to read as follows:

"(B) Such acreage may be devoted to approved wildlife food plots or fish and wildlife habitat which are established in conformity with standards developed by the Secretary in consultation with the Secretary of the Interior, and the Secretary may compensate producers for such practices. The Secretary may also provide for payment in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit access, without other compensation, to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations. The Secretary after consultation with the Secretary of the Interior shall appoint an Advisory Board consisting of citizens knowledgeable in the fields of agriculture and wildlife with whom he may consult on the wildlife practice phase of programs under this subsection, and the Secretary may compensate members of the Board and reimburse them for per diem and traveling expenses. The Secretary shall invite the several States to participate in wildlife phases of programs under this subsection by assisting the Department of Agriculture in developing guidelines for (a) providing technical assistance for wildlife and habitat improvement practices, (b) reviewing applications of farmers for the public land use option and selecting eligible areas based on desirability of wildlife habitat, (c) determining accessibility, (d) evaluating effects on surrounding areas, (e) considering esthetic values, (f) checking compliance by cooperators, and (g) carrying out programs of wildlife stocking and management on the acreage set aside. The Secretary shall consult with the Secretary of the Interior regarding regulations to govern the administration of those aspects of this subparagraph (B) that pertain to wildlife. Funds are authorized to be appropriated to the Secretary of the Interior for use in assisting the State wildlife agencies to carry out the provisions of this subparagraph and in administering such assistance."

(6) By adding at the end of paragraph (2) the following: "The foregoing provision shall not prevent a producer from placing a farm in the program if the farm was acquired by the producer to replace an eligible farm from which he was displaced because of its acquisition by any Federal, State, or

other agency having the right of eminent domain."

(7) By adding at the end of paragraph (4) the following: "Any agreement may be terminated by mutual agreement with the producer if the Secretary determines that such termination would be in the public interest."

(8) By adding at the end of paragraph (5) the following: "The Secretary may if he determines that such action will contribute to the effective and equitable administration of the program use an advertising-and-bid procedure in determining the lands in any area to be covered by agreements. The total acreage placed under agreements in any county or local community shall be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired as compared to the average productivity of eligible acreage in the county or local community."

(9) By adding a new paragraph (6) to read as follows:

"(6) For the purpose of obtaining an increase in the permanent retirement of cropland to noncrop uses the Secretary may, notwithstanding any other provision of law, transfer funds available for carrying out the program to any other Federal agency or to States or local government agencies for use in rural areas in acquiring cropland for the preservation of open spaces, natural beauty, the development of wildlife or recreational facilities, or the prevention of air or water pollution under terms and conditions consistent with and at costs not greater than those under agreements entered into with producers, provided the Secretary determines that the purpose of the program will be accomplished by such action. The Secretary also is authorized to share the cost with State and local governmental agencies and other Federal agencies in the establishment of practices or uses which will establish, protect, and conserve open spaces, natural beauty, wildlife or recreational resources, or prevent air or water pollution under terms and conditions and at costs consistent with those under agreements entered into with producers, provided the Secretary determines that the purposes of the program will be accomplished by such action. No appropriation shall be made for any agreement under this paragraph (6) involving an estimated total Federal payment in excess of $250,000 unless such agreement has been approved by resolution adopted by the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate."

(10) By striking out the last sentence of paragraph (7) and substituting the following: "In carrying out the program, the Secretary shall not during any of the fiscal years ending June 30, 1971, through June 30, 1973, or during the period June 30, 1973, to December 31, 1973, (A) enter into agreements with producers which would require payments to producers in any calendar year under such agreements in excess of $10,000,000 plus any amount by which agreements entered into in prior fiscal years require payments in amounts less than authorized for such years, or (B) enter into agreements with States or local agencies under paragraph (6) which would require payments to such State or local government agencies in any calendar year under such agreements in excess of $10,000,000 plus any amount by which agreements entered into in prior fiscal years require payments in amounts less than authorized for such years. For purposes of applying the foregoing limitations, the annual payment shall be chargeable to the year in which performance is rendered regardless of the year in which it is made."

(11) By striking out "June 30, 1963" in paragraph (7) and substituting "June 30, 1972".

(12) By inserting "farming opportunities and" preceding the words "interests of tenants and sharecroppers in paragraph (3)".

MARKETING QUOTA EXEMPTION FOR BOILED PEANUTS

SEC. 802. The last paragraph of the Act entitled "An Act to amend the peanut marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, and for other purposes", approved August 13, 1957 (7 U.S.C. 1359 note), is amended to read as follows: "This amendment shall be effective for the 1957 and subsequent crops of peanuts."

VOLUNTARY RELINQUISHMENT OF ALLOTMENTS

SEC. 803. Notwithstanding any other provision of law, the Secretary may provide for the reduction or cancellation of any allotment or base when the owner of the farm states in writing that he has no further use of such allotment or base.

INDEMNIFICATION FOR BEEKEEPERS

SEC. 804. (a) The Secretary of Agriculture is authorized to make indemnity payments to beekeepers who through no fault of their own have suffered losses of honey bees after January 1, 1967, as a result of utilization of economic poisons near or adjacent to the property on which the beehives of such beekeepers were located.

(b) The amount of the indemnity payment in the case of any beekeeper shall be determined on the basis of the net loss sustained by such beekeeper as a result of the loss of his honey bees.

(c) Indemnity payments shall be made only in cases in which the loss occurred as a result of the use of economic poisons which had been registered and approved for use by the Federal Government.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(e) The Secretary is authorized to issue such regulations as he deems necessary to carry out the purposes of this section.

(f) The provisions of this section shall not be in effect after December 31, 1973.

SEC. 805. (a) Notwithstanding any other provision of law, the Secretary shall permit any producer who is participating in the wheat program under title IV of this Act, in the feed grain program under title V of this Act, or in the cotton program under title VI of this Act, in any year in which an acreage diversion or set-aside program is in effect, under any such program in which such producer is participating, subject to the conditions prescribed in subsection (b) of this section, to plant and harvest hay from 25 per centum of the acreage on the farm diverted from production under such programs or twenty-five acres, whichever is greater.

(b) Any producer who elects to plant and harvest hay on diverted or set aside acreage pursuant to this section shall first agree not to use any such hay harvested from such acreage unless authorized to do so by the Secretary.

(c) When any diverted or set aside acreage has been planted and harvested under authority of this section, the hay harvested therefrom shall be baled and stored in sealed storage on the farm in accordance with such regulations as the Secretary may prescribe and shall be available only for use during periods of emergency declared by the Secretary. In order to avoid deterioration of such hay stored on the farm for emergency purposes pursuant to this section, the Secretary may permit such hay to be removed and used or sold from time to time so long as an amount of hay equal to the amount removed is previously placed in storage and sealed.

(d) Any farmer who has hay stored on his farm for emergency purposes pursuant to this section may remove such hay from storage and use it whenever the Secretary has (1) designated as an emergency area the area in which such farm is located, and (2) specifically authorized the use of emergency hay by farmers in the area.

(e) The Secretary of Agriculture is authorized to make or guarantee loans to farmers, both tenants and landowners, to assist such farmers in the construction of storage facilities on the farm for the storage of emergency hay pursuant to the provisions of this section if such farmers are unable to obtain loans from commercial sources at reasonable rates and on reasonable terms and conditions. Loans made by the Secretary under this subsection shall be made at the current rate of interest for periods not exceeding ten years, and on such other terms and conditions as the Secretary may prescribe.

SEC. 806. (a) Section 306 of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1926), is amended by adding at the end thereof a new subsection as follows:

"(d) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year."

(b) Subtitle A of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1921–1929), is amended by adding at the end thereof a new section as follows:

"SEC. 310. Funds appropriated for the purpose of making direct real estate loans to farmers and ranchers under this subtitle shall remain available until expended."

TITLE IX—RURAL DEVELOPMENT

COMMITMENT OF CONGRESS

SEC. 901. (a) The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

LOCATION OF FEDERAL FACILITIES

(b) Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain, insofar as practicable, departmental policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities. The President is hereby requested to submit to the Congress not later than September 1 of each fiscal year a report reflecting the efforts during the immediately preceding fiscal year of all executive departments and agencies in carrying out the provisions of this section, citing the location of all new facilities, and including a statement covering the basic reasons for the selection of all new locations.

PLANNING ASSISTANCE

(c) The Secretary of the Department of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a joint progress report as to their efforts during the immediately preceding fiscal year to provide assistance to States planning for the development of rural multicounty areas not included in economically depressed areas under authority of the Housing and Urban Development Act of 1968. The first such annual report shall be submitted not later than December 1, 1970, and shall cover the period beginning August 1, 1968, the date of enactment of the Housing and Urban Development Act of 1968, and ending June 30, 1970.

INFORMATION AND TECHNICAL ASSISTANCE

(d) The Secretary of Agriculture shall submit to the Congress a report not later than September 1 of each fiscal year reflecting the efforts of the Department of Agriculture to provide information and techni-

cal assistance to small communities and less populated areas in regard to rural development during the immediately preceding fiscal year. The first such annual report shall be submited not later than December 1, 1970, covering the period beginning July 1, 1969, and ending June 30, 1970. The Secretary shall include in such reports to what extent technical assistance has been provided through land-grant colleges and universities, through the Extension Service, and other programs of the Department of Agriculture.

GOVERNMENT SERVICES

(e) The President shall submit to the Congress a report not later than September 1 of each fiscal year stating the availability of telephone, electrical, water, sewer, medical, educational, and other government or government assistant services to rural areas and outlining efforts of the executive branch to improve these services during the immediately preceding fiscal year. The President is requested to submit the first such annual report, covering the fiscal year ending June 30, 1970, on or before December 1, 1970.

FINANCIAL ASSISTANCE

(f) The President shall report to Congress on the possible utilization of the Farm Credit Administration and agencies in the Department of Agriculture to fulfill rural financial assistance requirements not filled by other agencies. The President is requested to submit the report requested by this section on or before July 1, 1971, together with such recommendations for legislation as he deems appropriate.

And the Senate agree to the same.

W. R. POAGE,
THOMAS G. ABERNETHY,
GRAHAM PURCELL,
B. F. SISK,
PAGE BELCHER,
CATHERINE MAY,
WILLIAM C. WAMPLER,
Managers on the Part of the House.
SPESSARD L. HOLLAND,
JAMES O. EASTLAND,
GEORGE D. AIKEN,
JACK MILLER,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 18546, to establish improved programs for the benefit of producers and consumers of dairy products, wool, wheat, feed grains, cotton, and other commodities, to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

The Senate struck out all after the enacting clause of H.R. 18546 and substituted a Senate amendment which, while dealing with the same subject matter, differed from it in a number of major respects. The amendment herewith reported embodies the agreement of the conferees on the various points of difference in the House bill and the Senate amendment and was agreed to by the conferees as a substitute for the Senate amendment.

The conference substitute follows the structure of the House bill as to the order and arrangement of titles.

Following is a discussion of the substitute amendment as agreed to by the conferees:

TITLE I—PAYMENT LIMITATION

Section 101 of the conference substitute is identical to the House bill. The conferees, however, intend that the application of the payment limitation exemption for "lands owned by States, political subdivisions, or agencies thereof" to apply only to these governmental entities and not to other persons who may lease or rent State or local government-owned lands. In other words, it is the intent of the conferees that the payment limitation in this bill should apply to all persons who rent or lease land owned by States, political subdivisions, or agencies thereof.

It is also the conferees' intent that in applying the payment limitation to the wheat program any savings that result will accrue to the Government and will not be redistributed to other wheat growers in the form of domestic marketing certificates. In other words, the provision requiring the allotment to be such as will result in certificates being issued for the full amount of the wheat used for domestic food consumption does not mean that the allotment would be increased to the extent necessary to provide for issuance to other producers of the certificates which may be denied some producers as a result of the payment limitation in title I of the bill.

TITLE II—DAIRY

This title of the conference substitute contains four sections dealing with different aspects of the dairy program.

Section 201 deals with the amendments to the statutory authority for Federal milk marketing orders and is substantially the same as the provision included in the House bill. The differences are as follows:

1. There is a language clarification which was included in the Senate amendment relative to adjustments under clause (d) of section 8c(5)(B) of the Agricultural Marketing Agreement Act of 1937, as amended. Clause (d) is designed to specifically retain and separately state existing authority for seasonal base-excess plans.

2. Under clause (f) which extends the authority for the Class I Base plan, the conference substitute corrects a clerical error in clause (ii) and clarifies the intent of the House language in clause (v) that dairy farmers outside a Class I Base plan market shall within 90 days be entitled to competitive access and be treated the same as dairy farmers already within the scope of the order. Clause (v) also contains a clarification concerning the production facilities currently being used to determine the Class I Base allocation of such producers.

3. The conference substitute also retains the House language relative to producer-handlers. It is the clear and specific intent of the conferees that the Secretary shall maintain the same policy with respect to the exemption of producer-handlers from the provisions of marketing orders that was maintained prior to the enactment of H.R. 18546, the "Agricultural Act of 1970."

4. Section 201(e) of the House bill which provided that the provisions of this section shall expire on December 31, 1973, is retained but it is amended to provide that during the three-year life of this section orders providing for Class I Base plans issued prior to December 31, 1973, may extend until December 31, 1976. In other words any area which qualifies to use the Class I Base plan authority must do so by December 31, 1973, and if the order is issued prior to that date, it could extend into the future as far as December 31, 1976.

Nothing in this amendment is intended to alter the authority in the law for either producers or the Secretary to terminate or amend any Class I plan prior to its termination as otherwise provided.

Sections 202 and 203 of the conference substitute deal with the suspension of butterfat price supports and the military and veterans hospital dairy program and are unchanged from the House bill.

Section 204 of the conference substitute deals with dairy indemnity payments and contains the Senate provision making dairy processors also eligible for relief under the Act of August 13, 1968. The conferees, however, have included language in this provision intended to make its application in respect to dairy processors prospective and applicable only to claims originating subsequent to the enactment of H.R. 18546. Producer indemnity payments have been authorized for six years, and it is the conferees intent that any producer claims arising during the period beginning with the expiration of the Act of August 13, 1968, and the date of enactment of this bill will also be entertained and adjudicated by the Secretary.

In addition, the conferees wish to make it clear that the absence of a specific reference in H.R. 18546 to the Secretary's authority to issue manufacturing milk marketing orders under the 1937 Act is not intended to be construed as their belief that such authority does not exist. On the contrary, the conferees feel that such authority exists and it is unnecessary to include it in this bill.

TITLE III—WOOL

Section 301 of the conference substitute which amends and extends the National Wool Act for three years is identical to the House bill.

TITLE IV—WHEAT

The conference substitute incorporates most of the language of title IV of the House bill. The following major Senate amendments as modified by the conferees are included:

1. A floor on the loan of $1.25 during each of the next three years.

2. A limit on the number of acres that the Secretary may set aside without making diversion payments to wheat farmers to 13.3 million acres in 1971 and 15 million acres during each of the following two years.

3. A special provision for summer fallow farms providing that no further set-aside need be made after 55 percent of cropland on the farm has been devoted to summer fallow practices.

4. Standby authority for the Secretary to impose acreage restrictions on the 1973 crop of wheat. The House bill provided such authority for the first two years, 1971 and 1972.

The main Senate amendments not included in the conference substitute are:

1. Extension of the wheat provisions of the Food and Agriculture Act of 1965 to the 1971 wheat crop.

2. The conduct of a referendum under which wheat farmers would choose for 1972 and 1973 between a continuation of the wheat program under the 1965 Act or the set-aside program provided in the House bill.

3. A small farm wheat certificate bonus of 30 percent for producers on farms of not more than 160 acres who annually had off-farm earned income of not more than $2,000 and sales of farm products of not more than $5,000.

4. Mandatory advance payments within 60 days of sign up.

5. Authority for the Secretary to extend the 1973 wheat program to the 1974 crop if Congress had not acted on new wheat legislation in the fall of 1973.

Sections 402 and 501 of the Senate amendment provided for mandatory loans on farm-stored wheat and feed grains and required, to the maximum extent practicable, the renewal of loans on these grains. The conference substitute deletes these provisions because there is ample authority in existing law for the issuance of price support loans on grains stored on the farm where produced and for renewal of loans. The conferees note that farm storage and reseal of grain has been a Department practice for a number of years, and the Department has assured the conferees that it intends to continue this policy.

The Senate amendment also contained a provision which would have required persons processing flour second clears, gluten, or other products or by-products of wheat for which domestic marketing certificates have not been obtained to do so if these materials were in the commercial production of food products.

The conference substitute deletes this provision.

The conferees were advised by the Department of Agriculture that the Senate amendment would be difficult to administer and

would create international difficulties while failing to go to the heart of the problem.

The following letter from the Department of the Treasury to Senator Miller explains the Bureau of Customs action in regard to this matter:

DEPARTMENT OF THE TREASURY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., November 25, 1969.

DEAR SENATOR MILLER: Secretary of the Treasury Kennedy has asked that I reply to your inquiry of November 7, 1969, in which you expressed your interest and views on the Bureau of Customs' proposed reclassification of imported second clear wheat flour.

Second clear wheat flour has been imported for many years ex quota and, until 1967, it was classified for tariff purposes under the provision for animal feeds and ingredients therefor because it was chiefly used for that purpose. However, after conducting a study of the uses being made of this product, the Bureau concluded in 1967 that it was no longer chiefly used for animal feed purposes. Accordingly, the Bureau adopted measures involving a change in the tariff treatment of this product. In connection with these measures, several notices of intent to change the classification of imported second clear wheat flour were published in the Federal Register, the latest being February 28, 1969 (34 F.R. 3635).

In the above-mentioned notice, the Bureau stated its tentative conclusion that second clear wheat flour is classifiable under the provision for other non-enumerated products in item 799.00, Tariff Schedules of the United States, with duty at the rate of 8 percent ad valorem. Interested parties were requested to submit written views on this tentative conclusion. The Bureau received numerous representations and statements in response to the notice, and these are currently under review. You may be assured that your views, as well as those of all interested parties, will be carefully considered in arriving at a final conclusion.

The notice referred to above stated a tentative conclusion and is subject to review before a final order may be issued. Several alternative classifications for this product are also being considered. When this matter has been reviewed and a final conclusion reached, you will be informed of such action as is taken at that time.

If we can provide any additional information or be of further assistance, please feel free to call on us.

Sincerely yours,

EUGENE T. ROSSIDES.

It is the opinion of the conferees that any imported product which is used primarily in food processing should be classified for tariff purposes as a food product in the appropriate category.

The conferees therefore recommend that the Bureau of the Customs take appropriate action to classify imported second clear flour in its proper classification consistent with current usage.

TITLE V—FEED GRAINS

The conference substitute contains most of the language of title V of the House bill.

The following provisions included in the Senate amendment are, however, included in the conference substitute:

1. A floor of $1.00 per bushel on corn for each of the next three years. The House bill contained no such provision.

2. A floor expressed in terms of parity on the target price guarantee for corn. Under the House bill this floor was set at $1.35 per bushel. The conference substitute retains the House provision, but adds a 70 percent of parity guarantee as well.

The conference substitute also contains specific language which is designed to apply in the event 70 percent of parity exceeds $1.35 in 1973. This provision represents a compromise between those Members of the Conference favoring 68 percent of parity and those Members favoring 70 percent or more. If, for the 1973 crop of corn, use of the 70 percent of parity figure would result in an increase in total payments under the feed grain program over the total payments made in 1972 by reason of the level being fixed above 68 percent of parity, such increase will not be effective. It is recognized that factors other than the parity differential could result in an increase in total payments for 1973 over the total for 1972. If 70 percent of the parity price for any marketing year exceeds $1.35, the Secretary shall make every effort to maintain the market price for corn at such level as will not require a payment in excess of 32 cents per bushel.

3. Standby authority for the Secretary to impose acreage restrictions on the 1973 crop of feed grains. The House bill provided for such authority for the first two years, 1971 and 1972.

4. A requirement for the Secretary to proportionately reduce the level of feed grain preliminary payments if the feed grain set-aside is less than 20 percent. There was no comparable provision in the House bill.

5. A provision which preserves history on feed grain bases not planted by a farmer who forgoes payments to which he would otherwise be entitled. There was no comparable provision in the feed grain section of the House bill, but a similar measure was included in the wheat title of the House bill.

The main Senate amendments not included in the conference substitute are:

1. The mandatory inclusion of barley as a feed grain under the program.

2. A small farm feed grain bonus of 30 percent for producers on farms of not more than 160 acres who annually had off-farm earned income of not more than $2,000 and sales of farm products of not more than $5,000.

3. Mandatory advance payments within 60 days of sign-up.

4. An exemption under the feed grain program for malting barley.

TITLE VI—COTTON

Title VI of the conference substitute contains most of the language of the House bill, but the conferees made the following main changes:

1. A provision requiring that payments, when added to the national average market price during the first five months of the marketing year, shall equal 35 cents or 65 percent of parity, whichever is greater. The House bill did not contain a parity guarantee, and the Senate amendment calculated these payments as the difference between the loan and the higher of 35 cents or 65 percent of parity.

2. A small cotton farm payment bonus of 30 percent to producers having allotments of 10 acres or less or producing 5,000 pounds or less. The House bill did not contain a small farm bonus provision.

3. Establishment of the loan level at 90 percent of the average world price for the preceding two years. The House bill required a loan equal to 90 percent of the world price as estimated by the Secretary of Agriculture.

4. Anniversary-type loan program. The House bill contained no comparable provision.

5. A limitation on eligibility for loans on cotton produced beyond the base acreage in 1972 or 1973 if the carryover at the start of either year exceeds 7.2 million bales. The House bill contained no comparable provision.

6. Discretion for the Secretary to restrict cotton production in excess of the base acreage allotment if the carryover at the start of either 1972 or 1973 exceeds 7.2 million bales. The House bill contained no comparable provision.

7. A cotton set-aside equal to not more than 28 percent of the base acreage. The House bill established a set-aside of not more than 33⅓ percent.

8. A new cotton research program. The House bill contained no comparable provision.

It is the intent of the Conferees that under section 610 of the conference substitute the Commodity Credit Corporation shall divert to the Cotton Board not more than $10,000,000 annually in 1971, 1972, and 1973 from those sums which would otherwise be paid to cotton producers, but for the operation of payment limitations, in order to develop and expand both domestic and foreign markets for upland cotton. The only discretion intended for the Secretary in this regard is over the approval or disapproval of various research and promotion projects, as is the case under the Cotton Research and Promotion Act.

It is the conferees intent that the Secretary be given discretion to use an additional $10,000,000 annually during 1972 and 1973 for the same purposes.

TITLE VII—PUBLIC LAW 480

Section 701 of the conference substitute extends titles I and II of Public Law 480 for an additional three years and is identical to the House bill.

Section 702 of the conference substitute is an amended version of section 703 of the Senate amendment dealing with the educational and cultural exchange program conducted pursuant to the Act.

The conference substitute deletes the Senate provision which would have increased the level of funds required to be available for this program from 2 percent to 5 percent of new foreign currency agreements. It rewrites section 703(b) of the Senate amendment so as to allow appropriation acts to specifically authorize the use of foreign currencies without requiring the appropriation of dollars for the purchase of those same foreign currencies.

Section 702 of the Senate amendment dealt with Public Law 480 market promotion activities concerning alcoholic beverages and is not included in the conference substitute.

TITLE VIII—GENERAL AND MISCELLANEOUS

Long-term land retirement

Section 801 of the conference substitute deals with long-term land retirement. The conference substitute makes the following changes in the House bill:

1. A provision which restricts acreage in the program to such an amount as will not adversely affect a county or local community.

2. A provision allowing cost sharing with other Federal agencies.

3. Authorized to use CCC funds to finance the program until June 30, 1972.

The main Senate provision not included in the conference substitute was the amendment calling for the annual retirement of up to six million acres during each of the next three years. The authorized level of expenditures as provided in the House bill ($20 million plus carryover) is unchanged in the conference substitute.

Marketing quota exemption for boiled peanuts

Section 802 of the conference substitute provides for a permanent extension of the boiled peanut marketing quota exemption as was provided in the Senate amendment. The House bill provided for a three-year extension of this provision.

Voluntary relinquishment of allotments

Section 803 of the conference substitute deals with the voluntary relinquishment of allotments or bases and is identical to the House bill.

Indemnification of beekeepers

Section 804 of the conference substitute establishes a beekeeper indemnity program and is identical to the House bill.

Baled hay storage

Section 805 of the conference substitute incorporates a baled hay storage provision

into the wheat, feed grain, and cotton set-aside program.

It permits producers to plant, harvest, and bale hay grown on wheat, feed grain, and cotton set-aside acres and store for future emergency periods declared by the Secretary. The Secretary could also make loans for baled hay storage facilities. There was no comparable provision in the House bill.

FHA loans

Section 806 of the conference substitute amends the Consolidated Farmers Home Administration Act of 1961 to provide that funds appropriated for section 306 (association loans and grants) and for direct real estate loans to farmers and ranchers shall remain available until expended. Also provides that unused authorizations for appropriations shall carry over from year to year. There was no comparable provision in the House bill.

CONDITION BEYOND THE CONTROL OF THE PRODUCER

The phrase "Condition beyond the control of the producer" which appears in the history preservation provisions of the wheat, feed grain, and cotton sections of the bill was carefully considered by the conferees.

It is the intent of the conferees that this phrase include such contingencies as a quarantine imposed by a local, State, or Federal Government agency and any payment limitation which is included in this or subsequent legislation.

As originally pointed out in the House report on H.R. 18546, one of the main objectives of this legislation is to give farmers greater latitude in making choices as to how to operate their farms. Therefore the conferees do not intend to reduce the acreage history of any farmer because he does not plant and harvest that part of his farm allotment of wheat, feed grains or cotton on which he is denied payments by reason of a payment limitation.

TITLE IX—RURAL DEVELOPMENT

Section 901 commits Congress to a sound rural-urban balance and provides for various reports on planning assistance, technical assistance, government services and utilities, and financial assistance. This title also requires a Federal policy that new offices and facilities be located, insofar as practicable, in communities of lower population density. There was no comparable provision in the House bill.

A BRIEF SUMMARY

There follows a brief summary of the principal provisions of the conference substitute:

TITLE I—PAYMENT LIMITATION

1. Establishes an annual ceiling of $55,000 per crop on payments to producers of upland cotton, wheat, and feed grains.

2. The limitation imposed considers all payments made for price support, set-aside diversion, and public access, as well as marketing certificates.

3. The Secretary is authorized to adjust set-aside acreage and is directed to issue regulations necessary to insure fair and reasonable application of this title.

TITLE II—DAIRY

1. Amends and extends the authority for the Dairymen's Class I Base Plan in Federal milk market order areas and provides that any area covered by the program during the next three years could continue to have it in effect up to December 31, 1976.

2. Suspends the operation of the mandatory butterfat price support program for farm-separated cream and permits the Secretary to set lower support prices on butter.

3. Extends the Secretary's authority to donate dairy products owned by CCC to the Armed Services and Veterans Hospitals.

4. Provides authority to make indemnity payments to dairy farmers and dairy processors who, through no fault of their own, have their milk or dairy products contaminated by and condemned because of the presence of pesticides and residues.

TITLE III—WOOL

1. Extends the National Wool Act of 1954, as amended, through December 31, 1973.

2. Continues the present incentive price of 72 cents per pound for shorn wool and 80.2 cents per pound for mohair for each year of the extension.

TITLE IV—WHEAT

1. Suspends marketing quotas and acreage allotments for 1971, 1972, and 1973.

2. Provides domestic marketing certificates for farmers participating in the set-aside program in an amount equal to U.S. food consumption (not less than 535 million bushels annually).

3. Sets the face value of these domestic certificates at the difference between the wheat parity price (currently $2.85 per bushel) and the average price received by farmers during the first five months of the wheat marketing year (which starts on July 1).

4. Provides for a "preliminary" payment to participating farmers as soon as possible after July 1. This payment would be the amount estimated by the Secretary to be 75 percent of the value of the domestic certificate. The balance of the payment (if any) would be paid after December 1. If the Secretary's estimate were too high, no refunds by farmers would be required.

5. Continues the cost of certificates to wheat processors at 75 cents per bushel.

6. Authorizes the Secretary to set nonrecourse loans to participating farmers from $1.25 per bushel to 100 percent of the parity price for wheat.

7. Establishes a set-aside program under which wheat farmers, in order to be eligible for loans, certificates, and payments under the program, must set aside or divert from the production of wheat and other crops an acreage determined by the Secretary. The 1971 set-aside would be 13.3 million acres. The 1972 and 1973 set-aside could not exceed 15 million acres.

8. Authorizes additional set-aside and public recreational access payments.

TITLE V—FEED GRAINS

1. Establishes a voluntary feed grain (i.e. corn, grain, sorghum, and barley) program for 1971, 1972, and 1973.

2. Provides that price support payments to participating farmers on one-half of their feed grain base will be the difference between the higher of (a) $1.35 per bushel or (b) 70 percent of the parity price (for corn) and the average market price for the first five months of the marketing year (which starts on October 1 on corn and grain sorghum and July 1 on barley). In no event, however, would these payments be less than 32 cents per bushel for corn (with corresponding rates on grain sorghum and barley).

3. Authorizes the Secretary to set the nonrecourse loans level for corn from $1.00 per bushel to 90 percent of parity.

4. Authorizes additional set-aside and public recreational access payments.

5. Establishes a set-aside program under which participating farmers would be required to set aside or divert feed grain or other cropland in order to become eligible for feed grain loans and payments.

6. Provides for a preliminary payment of 32 cents per bushel on corn to participating farmers as soon as possible after July 1. If the difference between the average market price and $1.35 were more than 32 cents during the first five months of the marketing year, an additional payment would be made. In no event would refunds by farmers be required.

TITLE VI—COTTON

1. Provides payments on the estimated production from 11.5 million acres for the 1971 crop. In 1972 and 1973 the base acreage allotment would be set by the Secretary, and total payments would be adjusted accordingly.

2. Provides participating cotton farmers with loans and payments. The loan would be 90 percent of the average world price for two previous years. The payment would be the difference between the higher of 65 percent of parity or 35 cents and the average market price for the first five months following the beginning of the marketing year (which begins August 1), but in no event less than 15 cents per pound. No refunds by farmers would be required. Small farms would be eligible for 30 percent bonus payments.

3. Authorizes payments to participating farmers on acreage made available to the public for recreational purposes or on additional voluntary set-aside acreage.

4. Provides for a set-aside of cropland (not to exceed 28 percent of the cotton allotment) as a condition of eligibility for benefits under the program.

5. Establishes a voluntary program under which marketing quotas and penalties would be suspended for three years.

6. Requires participating farmers to plant cotton to receive payments, with two exceptions: (a) if unable to do so because of natural disaster or other condition beyond producers' control; (b) if not less than 90 percent of allotment is planted.

7. Provides for cotton research and promotion program.

8. Allows the sale of cotton allotments within a State, permits the lease of allotments within a State, and provides for the release and reapportionment of allotments during the 3-year life of this legislation.

9. Authorizes anniversary-type loan program under which the Secretary shall, after being presented with warehouse receipts reflecting accrued storage charges of not more than 60 days, make non-recourse loans for a term of 10 months from the first day of the month the loan is made.

TITLE VII—PUBLIC LAW 480

1. Extends the provisions of P.L. 480 (the "Food for Peace" program) which authorizes donations and long-term dollar credit and foreign currency sales of U.S. farm commodities to underdeveloped nations.

TITLE VIII—GENERAL AND MISCELLANEOUS

1. Continues the "Cropland Conversion" and "Greenspan" (long-term land retirement programs) at an authorized appropriation level of $10 million annually for each program.

2. Extends permanently the exemption from marketing quotas for boiled peanuts.

3. Permits farmers or other land owners who do not desire to hold an allotment on any crop under a government program to voluntarily relinquish it. (This would be a permanent provision.)

4. Establishes an indemnity program to reimburse beekeepers for losses caused by pesticide residues.

5. Permits producers to plant, harvest, and bale hay grown on wheat, feed grain, and cotton set-aside or diverted acres and store such hay for future emergency periods declared by the Secretary. The Secretary could also make loans for baled hay storage facilities.

6. Amends the Consolidated Farmers Home Administration Act of 1961 to provide that funds appropriated for section 306 (association loans and grants) and for direct real estate loans to farmers and ranchers shall remain available until expended. Also provides that unused authorizations for appropriations shall carry over from year to year.

TITLE IX—RURAL DEVELOPMENT

1. Commits Congress to a sound rural-urban balance and provides for various reports on planning assistance, technical as-

sistance, government services and utilities, and financial assistance. Also requires a Federal policy that new offices and facilities be located, insofar as practicable, in communities of lower population density.

W. R. POAGE,
THOMAS G. ABERNETHY,
GRAHAM PURCELL,
B. F. SISK,
PAGE BELCHER,
CATHERINE MAY,
WILLIAM C. WAMPLER,
Managers on the Part of the House.

TENTH ANNUAL WEST SIDE COMMUNITY CONFERENCE—LIFE, POWER, AND POLLUTION

(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, one of the critical problems facing our Nation and all mankind is the complex problem of life, power, and pollution.

Early this year, leading world experts and scientists joined with citizens of the West Side of Manhattan and of New York City to discuss the problem and to consider possible approaches and solutions.

Some 30 national and international experts joined with us in the 10th annual West Side Community Conference sponsored by me and by the Democratic and Liberal Clubs of the West Side.

I believe that elected officials, and particularly Members of Congress, have a special responsibility to increase citizen participation in public affairs. I believe that the public and those who mold policy are obligated to one another for understanding and direction.

Thus every year of my tenure in Congress I have sponsored an annual daylong community conference in New York City. The conferences are free of charge and free of partisan orientation. They bring together leaders in the Government and the academic world with the citizens to whom they are responsible for an exchange and an interchange of views.

On Saturday, April 18, 1970, we held our 10th annual West Side Community Conference on "Life, Power, and Pollution." More than 1,500 individuals attended and took part in the five panels and the plenary session at Riverside Church, New York City.

Speakers at the plenary session were Senator EDMUND S. MUSKIE, the Honorable T. T. B. Koh, member, U.N. Human Environment Preparatory Committee, permanent U.N. representative of the Republic of Singapore, and myself.

Other panelists included:

Dr. Roslyn Barbash, New Jersey Council on Clean Air and Water, New Jersey Medical Society.

Donham Crawford, managing director, Edison Electric Institute.

Merril Eisenbud, former New York City environmental protection administrator; director, Laboratory Environtal Studies, New York University Institute of Environmental Medicine.

Frederick W. Lawrence, assistant chief economist, Federal Power Commission.

William H. Megonnell, chief abatement officer, National Air Pollution Control Administration.

S. Smith Griswold, air pollution consultant; former chief abatement officer, National Air Pollution Control Administration.

Hartley W. Howard, technical director, Borden, Inc.

Herbert L. Ley, Jr., former Commissioner, Food and Drug Administration.

Diana Lyons, United Farm Workers, AFL–CIO.

Jean Mayer, professor of nutrition, Harvard University; Chairman, White House Conference on Food, Nutrition and Health.

Betty Furness, former Special Assistant to the President for Consumer Affairs; columnist, McCall's.

Robert H. Boyle, senior editor, Sports Illustrated; author, "The Hudson River."

Maurice M. Feldman, New York City commissioner of water resources.

Gerald J. Lauer, New York University Institute of Environmental Medicine.

James M. Quigley, former Commissioner, Federal Water Pollution Control Administration; former Member of Congress.

John Clark, acting director, Sandy Hook Marine Laboratory.

Frank R. Bowerman, former assistant chief engineer, Los Angeles County Sanitation District; vice president, Land Pollution Control Group, Zurn Industries.

Leo Weaver, American Public Works Association.

Samuel J. Kearing, Jr., former New York City commissioner of sanitation.

Ben Miyares, editor, "Food and Drug Packaging."

Tom Stokes, director, Environment.

George B. Hartzog, Jr., Director, National Park Service; Boris Pushkarev, vice president, Regional Plan Association coauthor, "Manmade America: Chaos or Control";

Dave Sive, director, Natural Resources Legal Fund;

Gary A. Soucie, executive director, Friends of Earth;

Nicholas A. Robinson, chairman, Environmental Law Council, Columbia University Law School.

I wish it were possible to acknowledge by name everyone whose work and leadership made the conference a success. I do want to thank the following people who made particularly vital contributions.

The cochairmen of the conference were Susan Cohn and Doris Clark. With the assistance of the conference committee they coordinated the entire conference.

Members of the committee, who worked with great energy over many months, were: secretary, Elaine Bernstein; treasurer, Ira Zimmerman; administrator coordinators, Elizabeth Savels, Jose Melendez; press, Bob Aronson, Rita Kardeman, Alan Kohn, Jules Rothstein; publications, Jack Rennert; photographer, Philip Eisner; panel coordinators, Betty Jo Bailey, Ann Comay, Jean Faust, Chauncey Olinger, William Rice, Toby Roxburgh; arrangements, Rita Breitbart, Hugh Ferry, Virginia Horton, Rosalind Silver, Ellen Wallach.

Other members of the conference staff were: Suzanne Abramson, Zvi Abramson, Mildred Ake, Sarah Arthur, Nancy Auster, Stephen Balicer, Ada Bass, Miriam Biddleman, Emmy Bloch, Scott Clark, Myra Dale, Noel DeLeon, Mrs. Noel DeLeon, Sylvia Diaz, Betsy Eisner, Philip Eisner, Peggy Fahnstock, Vivian Feyer, William Feyer, John Fisher, Dora Friedman, Helene Friedman, Wendel Gilbert, Paul Henri Girin, Susanna Gross, Judy Gurian, Sylvia Guzman, Judy Harrow, Eleanor L. Henson, Nancy Hinman, Maria Jimenez, Betty Kelly, Barbara Kleger, Joan Kunkel, Arthur Lane, Carol Leimas, Rosaura Maldonado, Jan McCarthy, Mark Meyer, Jean Miles, Henry Neale, Dan Nelson, Richard Neumeier, Josephine Odom, Peter Osman, Barbara Pettey, Lome Piasetsky, Anna Lou Pickett, Hugh Pickett, Eva Popper, Sharon Powers, Alan Rachlin, Susan Reed, Bob Reischauer, Laura Robinson, Tamara Rosen, Rita Salisbury, Joan Serrano, Richard Serrano, Barbara Silverstone, Lorna Sloan, Juanita Smith, Gina Staples, Barbara Steinberg, Judy Stievelband, Marion Stone, Leilani Straw, Jacob Waldman, Israel Weinstein, Barry Willis.

To each and every one who participated in the work of the conference we are indebted.

I also want to acknowledge the friendly cooperation of Mrs. Theodore A. Dilday; Mr. Lopez; Mr. Lyndstrom; Mr. French and the staff of Riverside Church. Our thanks also to the staff of WRUR; Garland C. Hartsoe, assistant manager, Men's Faculty Club, Columbia University, and the staff of the 20th Congressional District Office.

The participating clubs were: Ansonia Independent Democrats, Audubon Reform Democrats, Carver Democratic Club, Central Harlem Liberal Club, Community Free Democrats; Fort Washington-Manhattanville, Hamilton Heights, and Kennedy Democrats, F. D. R.-Woodrow Wilson Democrats, Heights Reform Democrats, John F. Kennedy, Democratic Club, New Chelsea Reform Democratic Club, New Democratic Assembly, New Horizons Democratic Club, Original John F. Kennedy Democrats, Park River Independent Democrats, Riverside Democrats, Solomon Weiss Liberal Club, Tioga Democratic Club, Village Independent Democrats, Washington Heights Progressive Democrats, West Side Liberal Club.

I am also deeply grateful to the large number of community sponsors whose generous contributions enabled the conference to be held.

The conference committee outlined the general theme of the conference in the following statement which raises some of the basic questions which must be resolved if the implications of the ecological crisis are truly to be faced:

> In a modern society, each of us is a polluter. It would be more comfortable to place all the blame on impersonal entities—"the system," "the establishment," or "big business." While individual and corporate action and government inaction has played the major role in bringing us to our present disastrous condition, they have been ably assisted and abetted by each individual, ready to reap the personal benefits of convenience and ease. Every enzyme pre-soaking, every aluminum can, every weekend car rental, every pre-packaged cook-and-serve dinner contributes to a polluted environment.
>
> We did not arrive at our calamitous state simply because of greed or indifference. We will not change it through moralizing. There

are very real conflicts in legitimate social goals. We may now understand the effects of insecticides on the ecological balance, but who will argue that the under-developed nations must continue to live with plague and wide-spread disease? We may recognize that massive urban construction poses massive disposal problems, but who will tell the poor that they must continue to live in substandard housing? We will not resolve our conflicts by arguing for a return to a pre-technological society.

Many argue that it is now survival itself which is in question, that the answer is not in the vague future awaiting conferences and studies, and that action delayed may well ensure the most radical answer of all . . . the end of life on earth.

It is our hope that today's conference will face in some depths the implications of the ecological crisis for each of us—the questions beyond the current flurry of interest.

Can the scientists and technicians agree at this point on what the solutions are?

What changes must each of us accept in our "life style?" What is the nature of the sacrifices involved if we are to restore our environment? What are the costs in money, in convenience? What are the possible effects on our economic system? What will it mean in jobs, in food, in public expenditures? What role must be played by government, by industry, by the consumer in reordering our goals and achieveing a new approach? What specific actions can we as individuals take to bring about the needed solutions?

Finally we must ask, are these questions themselves relevant? Can a democratic society which balances competing needs and interests resolve these conflicts? Can each of us, members of some pressure group—a union, a consumer organization, a professional association—individuals with personal concerns and demands, can we understand, recognize and work for solutions vital to the salvation of all?

At the plenary session, Senator MUSKIE, Ambassador Koh, and I touched on different aspects of the pollution problem facing our Nation and the world.

I include at this point in the RECORD the remarks of Senator MUSKIE, Ambassador Koh, and myself at the plenary session.

REMARKS BY SENATOR EDMUND S. MUSKIE BEFORE THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE, APRIL 18, 1970

I am very privileged to be invited to participate in this conference.

In this vast and beautiful center of worship there is a special drama as people of all ages and conditions of life have gathered to concern themselves about the health and welfare of their city. We are searching together for a national policy of environmental protection affecting all communities of the country.

Providing for this forum of understanding and dialogue, the West Side Community Conference has performed a remarkable public service over a period of ten years.

It is good to be here among friends.

Until the 20th Century, the world view of Western man was based on notions of fixed values and absolute laws.

We believed that the past infinitely repeated itself in cycles, and that the future was logically and predictably determined by the past.

Life was thought of as a state, rather than as a process, and the expressed goal of society was to achieve and maintain "normalcy."

But then in the early part of this century, the modern age burst into being. In an extraordinary flash of discovery and imagination, the sciences—physical and social—began to discover that their classical laws, so lucid and permanent, were merely fictions invented by the human mind and imposed upon a reality that refused to conform.

We discovered that we were living in a dynamic, unpredictable world of process and flux.

But despite the vast gains we have made in theory and knowledge on all fronts, in large part we still live by the inherited assumptions of a previous age. We still live by the social equivalent of Newtonian physics.

We act as though a luxurious future and a fertile land will continue to forgive us all the mistaken traditions by which we still abuse our physical and social environment.

The fact is that our shrinking margins of natural resources are the bottom level in the barrel. There are no replacements, no spare stocks with which we can replenish our supplies.

Our nation hangs together by tenuous bonds that are now strained as they have never beenstrained before. We now know that we live in a country of limited natural resources and fragile human resources, and that we cannot survive an undeclared war on our future.

An environmental conscience has of late been awakened in our nation, and it holds great promise for reclaiming our air, our water and our land.

But man's environment includes more than these natural resources. It includes the shape of the communities in which he lives, his home, his schools, his places of work and his society.

And it is essential to the quality of our national future that we recognize the present overall crisis of life in America. The environmental conscience may be the instrument needed to turn the nation around.

Through an awareness that the total environment determines the quality of life, we can begin to make those decisions that will salvage our nation from becoming a class-ridden physical wasteland.

We must forge a wholesale change in our priorities and our values. We must redefine our standard of living, reflecting the knowledge that both our human and natural resources are at stake.

The roots of the environmental crisis stretch as far back as the nation itself. Life in America was cheap in the beginning. Natural resources were plentiful, and the idea that there had to be limits on our material growth never entered our minds.

Early farming paid scant attention to conserving the land that produced the crops. We took trees from the forests without thinking of the possibility that our timber supply was not endless. Soon after industry first came to America, some of our rivers were seriously polluted and the air in some cities and towns was fouled.

But, as our cities grew and became more crowded, enough Americans could escape from the confines of soot and clutter so that the voices of those who were trapped were never really heard.

So pollution was isolated by the very size and openness of America. A river here, a forest there, a few of our larger, more industrialized cities—these early examples of environmental destruction seemed a small price to pay for our prosperity.

This was the frontier ethic: America pushing ahead and getting ahead, with an unlimited future—with a manifest destiny ahead of us.

The frontier ethic helped us build the strongest nation in the world. But it also led us to believe that our natural and human resources were endless, that our rivers could absorb as much sewage as we could pour in them, that there was automatic equal opportunity for everyone, that our air would always be clean, and that hunger and poverty didn't really exist in America.

The physical harnessing of the land absorbed us almost completely, and, in the process we did much more than domesticate it: we conquered it and are on the verge of killing it.

The luxury of space once absorbed our mistakes. If we irretrievably fouled our home areas, we could always pull up and make a fresh start farther west.

But the Western frontier is now gone. We have reached the shores of the Pacific, and the tide of our civilization has washed back into our cities.

We have become an industrialized, technically sophisticated society—and yet we still live by the old ethic of infinite horizontal expansions.

A frontier still exists, though, and we now confront it nationally. The frontier is no longer our West, or even "out there" anywhere.

It is now an internal and personal frontier. We now face—collectively and individually—a moral frontier.

And it is defined by the point at which we are willing to cut back our hungry selfishness in favor of selflessness.

It is marked daily by the extent of our concern for future generations. They deserve to inherit their natural shares of the American garden—as we have—but conceivably they could inherit a physical and moral wasteland.

We have reached a point where man, his environment, and his industrial technology intersect. We confront a deteriorated environment, a devouring technology and our fellow men. Relative harmony has become a three-cornered war—a war where everyone loses.

No society has ever reached this point before, no society has ever solved this problem. We have no past experience to guide us.

We have no choice but to turn away from uncontrolled economic and technological growth that ignores the increasing strain on the environment.

Our technology has reached a point in its development where it is producing more kinds of things than we really want, more kinds of things than we really need, and more kinds of things than we can live with.

We have to learn to choose, to say no, and to give up the luxury of absolute and unlimited free choice. These kinds of decisions are the acid test of our commitment to a healthy environment.

Let us look at the national budget for 1971. That "balanced budget" represents shamefully unbalanced priorities. That budget "balances" $275 million for the SST against $106 million for air pollution control. It "balances" $3.4 billion for the space program against $1.4 billion for housing. And it "balances" $7.3 billion for arms research and development against $1.4 billion for higher education.

It is a sham to say that we cannot afford the protection of our environment—just yet; or the fight against hunger and poverty—at this time; or homes and medical care for our people—for a few years. We can afford these programs now, if we admit that there are less important programs that we cannot afford.

These are the kinds of choices that have to be reversed.

We have forgotten that our primary goal as a nation is to create a society where each individual has an equal chance to fulfill his own potential. Our goal has never been to create a society where human greatness or environmental quality take a back seat to technological change.

The study of ecology—man's relationship with his environment—should finally teach us that our relationships with each other are just as intricate and just as delicate as those with our natural environment. We cannot afford to correct our history of abusing nature and neglect the continuing abuse of our fellow man.

We should have learned by this time that in our development as a nation, we must find ways to live together in peace. And we should have learned that the only way to achieve

peace among ourselves is to insure that all Americans have equal access to a healthy environment—to a healthy total environment.

That can mean nothing less than equal access to good schools for our children, to meaningful job opportunities, to adequate medical care and to decent housing.

For the last ten years we have been groping toward the realization that the total environment is at stake.

We have seen the destructon of poverty, and declared a war on it.

We have seen the ravages of hunger, and declared a war on it.

We have seen the costs of crime, and declared a war on it.

And now we have awakened to the pollution of our environment, and we have declared another war.

We have fought too many losing battles in those wars to continue this piece-meal approach to self-preservation.

The only strategy that makes sense is a total strategy to protect the total environment.

Environmental issues are not substitutes for the issues of poverty or race relations or urban decay. They are not substitutes for the issues of arms control or peacemaking or economic development. We cannot take refuge in concern for environmental quality as an excuse to ignore the specific ills that bedevil our society and our world—and will continue to do so whatever we do about cleansing the air and water and controlling solid waste.

An environmental point of view is however, something new—an integrative, comprehensive way of looking at human affairs.

It means that we have to outgrow the traditional way of approaching problems one at a time—each in its own limited context—and then acting, oblivious to the side effects.

It means that we must come off a long binge of specialization and learn to subordinate specialized knowledge to an encompassing view.

It means a brand new look at what we mean by "cost" what is economical or not economical, what we can afford and what we cannot afford.

One can sense today the emergence of a new morality concerned with the whole panoply of human concerns.

One can sense that we are approaching a sea-change in a human history dominated for so long by a spirit of competitiveness that—so easily—turns to rancor, hostility and violence.

Our competitiveness now has to be turned inward. We must begin competing with ourselves, and our selfishness—individually nationally and internationally.

The essential line along which our society is divided today is not that between leftist and rightist—it is the line between tolerance and intolerance.

The person who chants a litany of universal love and punctuates it with refrains of "kill the Facist pigs" is linked in a selfish tribe of hostility with the person who preaches traditional religious values and raises his children to children to believe that one race has natural rights another does not have.

We must work for the day when political campaigns are no longer based on appeals to the lowest animal instincts of greed, selfishness, hostility and fear.

In the cold and infinite expanses of space, only one small planet is known to sustain life in any form.

This tiny ball teems with beings that all alike share brief allotments of conscious existence.

An intelligent observer would expect to find these beings locked together in a close-knit brotherhood devoted to improving the general quality of their lives and preserving the harmony of their tiny planet.

Who would believe that in their situation, they would devote a substantial amount of their lives and energies in efforts to destroy or control one another.

Or even in neurotic efforts to demonstrate their individual superiority by piling up surfeits of wealth within actual insight of other beings who are bound to desperate lives of bare animal survival.

We are all too capable of deluding ourselves into thinking that some of us are naturally more important or deserving than others—that some possess a greater degree of human dignity and rights than others.

A common environment, however, contains them all, and finally is the great leveler. Our destinies are commonly linked—whether recognized or not.

Our national future hangs in great part from a fragile chain of natural and human resources, and the chain is corroded daily by selfishness and moral blindness.

The reform of our environment involves first the reform of ourselves.

We are all immeasurably more alike than different, and the continued insults to our social and natural environments are capable of shattering the delicate balance of the only world and home we have.

We have a right and duty to hope that the evolution of an environmental point of view might radically alter the fossil traditions about national interests, national sovereignty and national defense that pollute the world's intellectual environment.

It is a very long way from here to there.

The old traditions have an incredible power of survival.

Reactionary regimes still rule in important centers of world power.

Hostility is still a way of life in large societies.

International cooperation so far is hesitant, tentative and fragile.

Yet the first step toward an environmental point of view surely is to see the human predicament in its universal dimension.

The global environment is universal by definition. It is unrelated to artificial political boundaries. It is neutral ideologically. In its full dimension it can only be dealt with globally. And pervasive concern for the preservation, protection and management of the human environment is the best candidate yet for "a moral equivalent to war."

For this we do not need a miraculous reform of the human character. We only need a hard-headed human decision to save our own skins.

REMARKS OF AMBASSADOR T. T. B. KOH, PERMANENT REPRESENTATIVE OF SINGAPORE TO THE UNITED NATIONS, ON PROBLEMS OF THE HUMAN ENVIRONMENT AT THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE, APRIL 18, 1970

I wish to speak on two things. First, I wish to impart to you some impression of the approach of the developing countries towards problems of the human environment. Second, I wish to broach, in a preliminary way, on the International aspects of the question and to indicate the kind of international collaboration that would be both practical and useful.

When the proposal to convene an international conference on problems of the human environment was first put forward by Sweden in the United Nations in 1968, the sentiment was expressed by some representatives of developing countries that problems of the human environment are, like hypertension and coronary thrombosis, diseases of the rich. As one African Ambassador said to me: "Our problem is not how to reduce pollution but how to have more pollution."

The vision of a skyline of factory chimneys belching smoke into the atmosphere is seen by some representatives of developing countries as a delectable prospect signalling success in industrialisation. The deleterious effects of such industrial discharge into the atmosphere is either not perceived or, if perceived, accepted as a tolerable side-effect which will be taken care of in good time. The current campaign in the developed countries of the West to control and reduce pollution has stirred the suspicions of the more paranoic elements in the developing countries. One such ambassador at the U.N. has even suggested that it is a conspiracy by the developed countries to prevent or discourage the economic advancement of the developing countries.

I do not subscribe to such a point of view but I would like to explain to you the background to which a view relates. Unless you have traveled in the underdeveloped world, it is difficult for you, who live in the wealthiest nation in the world, to realize the extent and degree of material deprivation which afflicts the majority of mankind. The first priority of the developing countries is to provide for the primary needs of their citizens—a shelter for each household, clean water and sanitation, jobs for the adults and education for the young. If, in order to attain a rapid economic progress, it is necessary to do some violence to their physical environment, that seems like an acceptable price to pay.

The point of view of the developing countries is, therefore related, in the first place, to their different priorities. They want so desperately to achieve rapid social and economic progress that they are almost prepared to pay any price for it. Secondly, developing countries are afraid that if they seek to impose constraints and standards on industry, this will either cripple the industry or scare it away to a competing country which has no constraints or lower standards on industrial pollution.

This problem has two aspects. The first aspect relates to the exaggerated costs of preventive measures which industry will have to bear. Estimates put forward by industry are often exaggerated and few developing countries possess sufficient knowledge of such matters to be able to question such slanted information. The second aspect of the problem reveals a need for international action. There is a fierce competition between and among developing countries to entice the multinational corporations to establish manufacturing plants in their respective territories. In the absence of internationally recognised and enforced minimum standards on pollution control, the foreign investor will exploit the competition among the developing countries to their advantage because each of the developing countries will hesitate to adopt checks and standards for fear that to do so would render it less attractive than its competitors to foreign investors. The only solution to the problem is for the international community to adopt mimimum standards of pollution control which all countries will be obliged to observe.

It is, however, an error for developing countries to think that problems of the human environment affect only the developed countries and are irrelevant to the developing countries. There are, of course, differences in the nature and degree of the problems affecting the two groups of countries. But the developing countries should recognise the fact that the more rapidly they develop economically the sooner will they confront the same range of problems as the developed countries now do. This being the case, the developing countries should seek to learn from the mistakes of the developed countries and by the timely adoption of preventive measures, prevent the ravages on the human environment which have attended the technological progress of the West.

The problems was vividly brought home to us in Singapore by two recent incidents. An

aviary is being constructed in Jurong, a new town in Singapore in which most of our heavy industries are located. When the birds for the aviary began to arrive many of them were found to die shortly thereafter.

On investigation, it was found that the birds were dying from air pollution, the result of the discharge of fumes by the industries in Jurong. Singaporeans love plants and flowers and the Government was dismayed when it was found that the trees planted on a main thoroughfare in the central business district would not grow and the flowering plants would not blossom. On investigation it was found that this was the result of the fumes discharged by the motor vehicles. The public and Government were awakened by those two incidents to ponder what deleterious effects the air pollution could have on human beings if birds and plants have succumbed. We have now set up an anti-pollution unit and enacted legislation to control the problem.

I have already alluded to one form of international action which is necessary and practical. This is the adoption by the international community of minimum standards of tolerable limits for chemicals, physical and biological contaminants and other quantifiable effects injurious to health or the environment.

Other areas where international action is feasible and urgent will assuredly be explored by the U.N. Conference on Problems of Human Environment to be held in 1972 in Stockholm, Sweden. I have a modest number of candidates. First, I would like to see international action concerning the high seas and the stratosphere, two media which are beyond national jurisdiction and therefore not amenable to national action. The nature of the problem can be adequately conveyed by two simple facts. It is estimated that about one million tons of oil is being spilled into the high seas per annum. It has also been estimated that a jet plane, making a transatlantic crossing. consumes 35 tons of oxygen as well as discharge its poisonous pollutants into the stratosphere. Those two areas, the high seas and the stratosphere, can be said to be the heritage of all mankind and the enactment by the international community of rules for all human activities there, is an urgent necessity.

Another form of international collaboration which could become feasible in the near future is the establishment of a global network of monitoring centres which will compile, evaluate and disseminate data concerning the environment.

A third proposal is for the U.N. Conference on the Human Environment to adopt a Universal Declaration of the Human Environment. The committee elected to prepare for the conference, envisions the declaration as "a document of basic principles, calling mankind's urgent attention to the many varied and interrelated problems of the human environment, and to draw attention to the rights and obligations of man and State and the international community in regard thereto".

The committee hopes that such a declaration would serve several purposes. It would serve to stimulate public opinion and community participation for the protection and betterment of the human environment. It would also provide guiding principles for governments in their formulation of policy and set objectives for future international co-operation.

The astronauts have recently reminded us that mankind are co-travellers on a space ship "Mother Earth". We all depend for our existence on three scarce resources—land, water and air. In the conservation and rational use of those resources it should be possible for humanity to transcend racial, linguistic, regional and even ideological divisions. I was greatly heartened that at the first session of the U.N. Human Environment Preparatory Committee, delegations from East and West were able to discuss the problem in a harmonious spirit.

REMARKS OF CONGRESSMAN WILLIAM F. RYAN BEFORE THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE, APRIL 18, 1970

We are here to work together on the problem of "Life, Power and Pollution"—a horrendous problem in New York City.

We are still dumping raw sewage into the Hudson River.

The air we breathe is not really fit for human consumption.

We work and live and breathe in a polluted environment, in many ways unfit for human happiness or habitation.

And this is true today in the greatest city in the world . . . built by the richest people in the history of mankind . . . created by a technology of unlimited power and potential.

We have developed this technology to meet our needs and wants, to satisfy our desires and to open wider the doors of human freedom and opportunity.

With our technology, we have created new horizons for mankind. Yet with this same technology, we are racing toward ecological destruction.

As we strive to satisfy our wants, and to create a better way of life, we are literally racing to destroy the world we live in.

And the better life that we are building may not be just the better life that we envision.

This is our tenth conference, and after ten years, I think it is fair to say these conferences constitute something of a tradition.

Ten years is plenty of time to get a lot done—to move into the jet age, to put a man on the moon, to enormously improve the average American standard of living.

Ten years ago, many of us—and many of you gathered in this room—were fighting for action on air and water pollution and on disposal of solid wastes.

Ten years ago the President signed into law a bill to study the effects of motor-vehicle exhaust fumes on public health.

Seven years ago we passed the Clean Air Act providing funds for the prevention and control of air pollution.

Five years ago, I said—and I am going to quote myself—"We can achieve our goals, we can achieve clean air now and in the future, if we are willing to insist on adequate appropriations, strong nationwide standards, tough control programs and universal enforcement."

Five years ago, we knew the problem was not lack of knowledge or lack of understanding or lack of abilities. The problem was action. I said at the time, "The Administration, the Congress, and local government go on and on continuing their policy of much too little and far too late."

We continue that policy.

In the struggle to restore our enviroment, we still suffer from democracy's greatest disease—the syndrome of promise and procrastination.

The fault lies not in the stars, and not in our democracy. The fault, of course, lies in ourselves.

The problems of pollution are not the problems of others. They are our problems, each of ours.

The problems of pollution cannot be solved simply by providing incentives and enforcing laws on others. We must provide incentives and enforce laws on ourselves.

We cannot preserve the world, and enhance our ecology, by changing everyone else's way of life, goals and luxuries now considered necessities. We have to change our own.

You and I, the citizens of America, buy and drive the cars that cause sixty percent of the pollution.

You and I, the citizens of America, heedlessly prefer the things and packages that end in mounds of trash—neither biodegradeable nor reuseable.

You and I, the citizens of America, toss out beer cans, pop bottles, cigarettes and paper.

You and I live in warm houses heated by polluting fuels, lit by power from polluting plants.

You and I walk our dogs where they shouldn't be walked, use our cars where they shouldn't be used, and buy packaging and products we don't really need.

It is our environment and we defile it.

And to stop defiling it, we must change our wants and satisfactions, adjust our lifestyles and give up some of our luxuries that becomes necessities.

And that is why pollution suffers from democracy's disease—promise and procrastination.

What promising politician in his right mind . . . ?

What demagogue of the right or of the left . . . ?

Will act to stop the very people who elect him from doing the very things they want to do.

So we have spent a lot of time in talk.

But what about the Administrators, the bureaucrats.

If democracy's disease is promises and procrastination . . . the disease of the bureaucracy is study and report.

Faced with alternatively difficult solutions, the bureaucracy immediately turns on itself and comes up with more task forces on new studies or new reports.

And you cannot act until after you get the report.

For the last ten years, I cannot conceive of any other problem that has been as much studied and reported on as pollution. Not because we do not know the problems or the possible solutions. But because, for a bureaucracy, it is always safer to study than to act.

Ten years is a long while for a nation to become increasingly aroused, a long while for studies and demonstration and increasing public determination.

And despite the promises, and despite the procrastination, the work of the last ten years has begun to pay off.

In December of last year, more than 80 members of the House of Representatives joined in a statement urging that the decade of the 70's be the decade of the environment.

And last month, the Nixon Administration came lately and lamely to the anti-pollution wars—putting forth a program of promises, suggestions, procrastination and a great deal of rhetoric.

Nevertheless, meaningful legislation has been introduced in both the House and Senate, and it now has a reasonable chance of passage.

But in the face of Administrative procrastination, even good legislation is not going to be enough. The best laws can get lost in the bureaucracy while it carries out more studies and more reports.

We know all about this right here on the West Side.

Take the North River Water Pollution Control Project.

After originally planning the plant off 72nd Street, because of mid-town real estate pressures, the city Administration shoved it up here.

And as many of you know, like the East Germans . . . in the dead of night . . . the Administration has now given us our own West Side walls on Riverside Drive in the 80's and at 108th Street.

In our society electrical power is essential.

Hundreds of huge plants generate this power all over the nation.

Generation of electrical power often causes pollution, and the pollution is also interdependent and interconnected.

Yet, today, utilities generate power and plan for the future without considering the

nation's overall power needs or its overall environment and ecology.

I have called for a National Policy on Power Conservation, and we are drafting legislation. Under this legislation, the Federal Power Commission or a new agency would set national policy on sites, hazards, costs, environmental standards.

As a member of the House Interior Committee, I also had the original bill drafted to establish a New York Harbor national seashore—the Gateway National Recreation Area.

The bill would seek to improve and preserve the harbor as a place for people to enjoy the wonders . . . not of man . . . but of nature.

Islands in the harbor would be made part of the natural environment. Hoffman and Swindburn Islands, with a landfill connecting them, would be a park for picnicking and use by the people of New York.

A few weeks ago, Con Edison let it be known that it had its own plans for future power plants—and for the harbor. It would set up a power plant in the islands.

I have pointed out to the Secretary of the Interior that Con Edison's unilateral plans demonstrate we must act now to create the harbor seashore—if nothing else to preserve it from Con Ed.

But even in the Department of the Interior, the bureaucrats do not all look on the problems of the environment exactly as we do.

Asked about Con Ed's plant, one of the Undersecretaries said he sees nothing wrong. According to the New York Times, this was his vision.

He said, and I quote, "If adequate safety standards could be determined, I could see perhaps a revolving restaurant atop a nuclear platform on Hoffman, Swindburn Islands."

Were I the President of the United States, I would immediately condemn that gentleman to spend his working days revolving on the Ferris Wheel at Palisades Park . . . drinking Hudson River water . . . with a light bulb in each hand.

For just a few minutes, let me outline for you how well both our national and local governments know what we must do. And how well they avoid doing it.

In 1966, the Secretary of Health, Education and Welfare created a Task Force on Environment, Health and Related problems.

After numerous reports and studies, the Task Force came up with a practical program for immediate action.

One goal was, quote, "An Air Quality Restoration effort to initiate *by 1970* in 75 interstate areas, abatement plans to reduce plant stack emissions by 90 percent and to establish national standards to reduce vehicle exhaust emissions by 90 percent from 1967 levels.

This is 1970; the goal is past and unmet.

Another goal. Quote, "A materials, trace metals, and chemicals control effort to establish by 1970 human safety levels for synthetic materials, trace metals and chemicals currently in use and prohibit after 1970 general use of any new synthetic material, trace metal or chemical until approved by the Department of Health, Education and Welfare."

This is 1970. This year my office and citizens of the West Side had to carry out a major effort to get City and Federal action on lead paint poisoning, which is still injuring and even killing thousands of small children in New York and across the nation.

Just last week I held a press conference to point out that polychlorinated biphenyls, or PCBs, are rapidly polluting the environment and may be as damaging as DDP. PCBs are ingredients in many household and industrial products. All research indicates they may be destroying animals—and even human tissues. But no government agency regulates their production, use or emission.

Another goal. Quote, "A radiation control effort which, by 1970, through developmental research and enforcement, adequately protects workers and the public from harmful radiation levels."

This is 1970. I understand the AEC has announced that it is now actually reviewing standards.

The promise and procrastinate syndrome is not limited to the Federal government. It is just as prevalent on the local level.

In 1966, New York's mayor received a report from his Task Force on Air Pollution. That Task Force, too, was headed by experts.

It pointed out that air pollution exacts a prodigious toll on human health. It noted that New York City pumps more poisons per square mile into its air than any other major city in the United States.

It called for tough, resolute action.

And it made a number of specific recommendations. Look at two of the recommendations the Task Force said could and should be implemented immediately.

The Task Force noted that as a major offender, the City must, quote, obey its own laws, unquote. New York City still does not obey its own laws, either in its municipal incinerators or in it housing projects.

One more example. The Task Force also noted that a combination of tax incentives and vigorous enforcement could help accelerate development of a major industry in the field of pollution-control equipment. This could be done immediately.

Four years later, no tax incentives; no vigorous enforcement.

The problem we face is not pollution.

Because a problem is something to which you do not know the answer.

We know the answers to pollution and to re-establishing our environment.

Our problem is action.

And any technology which can carry men into a totally uninhabitable environment—and bring them back from space—can make our environment habitable.

But to put the technology to the task, we must have a clear, concise, goal. We must know and agree on where we want to go. Then we can find the way to get there.

Less than ten years ago, after the Russians beat us into space, President Kennedy announced a new national goal. He said we would put an American on the moon within the decade of the 1960's.

With that goal, with government resources and citizen support, our technology did the job—one of man's greatest engineering accomplishments to date.

More important and more significant than any space adventure, the President or the Congress must now set a specific, concise, national, ecological goal.

And this goal must ensure that we turn back the tide of pollution and poisons, and begin to recreate the national environment we will be proud to leave to our children.

At the national level, as citizens, we must make it clear that study groups are not enough, piecemeal approaches are not enough, token appropriations are not enough, promises and procrastination are not enough.

We want a total approach and action toward preserving our ecology and our world.

When the day comes when we have a nation goal . . .

When our legislatures and our bureaucracies get the message . . .

. . . That we are determined to adjust our own ways of life . . .

That we do not care about promises . . .

When that day comes . . . and it is coming soon . . . we will get the kind of action that will begin to restore our world . . . the world around us.

Talented citizens generously gave of their time and skills to report proceedings at the conference. For their reporting, notes, and articles, I am particularly grateful.

The morning panel on "Sources and Uses of Energy" was moderated by S. Smith Griswold, air pollution consultant; former chief abatement officer, National Air Pollution Control Administration. Panel members were Dr. Roslyn Barbash, New Jersey Council on Clean Air and Water, New Jersey Medical Society; Donham Crawford, managing director, Edison Electric Institute; Merril Eisenbud, former New York City environmental protection administrator, director, Laboratory Environmental Studies, New York University Institute of Environmental Medicine; William H. Megonnell, chief abatement officer, National Air Pollution Control Administration; Frederick W. Lawrence, assistant chief economist, Federal Power Commission.

I include the report on the panel discussion at this point in the RECORD:

SOURCES AND USES OF ENERGY

(By Virginia Horton)

Merrill Eisenbud said that new power plants are going to be needed, particularly in the metropolitan area, and that nuclear power is a clean, safe way to produce atomic energy.

At every level of government, he said, health officers believe this. The history of nuclear power is a good history. The first reactor went into operation 28 years ago. Only 13 are in action in this country. However, there are 130 power reactors aboard naval vessels, and the record is excellent. There have been no accidents involving people, and naval personnel live in close proximity to reactors.

The problem is not to keep a reactor from exploding, Mr. Eisenbud said but to keep it going. They are sluggish. There are over 500 reactors around the world; most are involved in research.

Mr. Eisenbud said atomic reactors should not be built in cities until we have more experience with them, probably by the end of the decade. But they will be the ultimate in air pollution control, and they can generate large volumes of steam for apartment houses in cities. We must stop operation of some 50,000 individual boilers.

Frederick W. Lawrence noted that one of the main contributors to pollution today is fossil fuel, and most forecasters predict its continuing use. He said that we must find a way to remove sulphur from it.

Fuel industries are now aware that they must consider the environment. However, fuel resources are not a bottomless well. Coal is the most plentiful fossil fuel resource. Natural gas, which provides the largest part of the fuel used, is already in short supply. Nuclear fuel is not well known as a resource.

People themselves cause much of the pollution, he said, and must bear much of the bill.

Donham Crawford noted that the number of users of electric facilities increasing, and each uses more all the time. On the farm, there is no aspect that cannot be automated, and the trend is in that direction. About 25 percent of the total energy consumed is electrical energy. By the year 2000, Mr. Crawford predicted, it will become 50 percent.

As to impact on the environment, industry is alert to its responsibilities. Con Edison has spent probably more than any group in the world on pollution control. Sulphur dioxide is the problem today, and it is a very difficult one. He said that the best, long-run answer is nuclear power; it has the best chance to lower costs of fuel.

Con Ed is also concerned with aesthetics, Mr. Crawford said, making facilities attractive or putting underground. But he claimed Con Ed is being blocked at every turn. And

he said that the internal combustion engine—not the utility is responsible for most of our pollution.

The prosperity of the nation is directly correlated to the use of electrical energy. It is not an environment problem, but rather is a big part of the solution.

Roslyn Barbash said there is a difference between need and consumption. People not only overeat, but often the nutritive quality of what they eat is poor; pesticides are a danger.

Commuters by car are exposed to atmosphere and situations which affect their eyes, brain, heart and entire pulmonary system. At home, too, pollution is increased by, for example, use of detergents.

Dr. Barbash said we must change our life style to:

(1) Limit number of vehicles on road, (2) Impose manufacturing controls so that there is complete recycling of wastes, (3) Consider whether we want to proliferate nuclear plants from which radioactive gases are escaping, (4) Stop luring people into purchasing more power-driven equipment, (5) Increase our physical exercise, (6) Use less and re-use more, (7) Set up environment protection councils with Minimal federal standards and states able to adopt more stringent controls.

William H. Megonnell said that air pollution prevention is accomplished at the source and is far cheaper to prevent and control than to tolerate.

He said new sources should be designed to meet minimum levels consistent with available technology, and we must start thinking of the *total* atmosphere.

Mr. Megonnell noted that evidence of harmful effects comes painfully slowly. Those that can be kept out of the atmosphere should be. We cannot wait to see what might happen. For instance, we must keep lead out of gasoline.

We have had adverse industrial action, Mr. Megonnell said. Not only ever increasing production in pursuit of profits, but also action to convince people they actually need those products. Industrial action has added inexorably to our pollution load. Industry is still active in city halls and the U.S. Congress to see that little counteraction is taken. Industry is working actively to block legislation or water down its provisions.

We have also had government inaction, Mr. Megonnell said. Government has actually believed that a clean environment and prosperity are incompatible. It has hoped for the status quo. Now, he said, we need a "breathers lobby."

There is some control program in every state, but it is government's job to see that innovations are forced on individuals and on industry. Not many sources of pollution will abate voluntarily. Government must overcome its lethargy and enforce regulations.

Mr. Megonnell said that actions will have to be bold: possibly a ban of private automobiles from urban areas; making it illegal to burn refuse except in central incinerators; rationing of electric power, gasoline and heating fuels; limiting of production of certain goods unless non-polluting goods are used to produce them. Mr. Megonnell said he was not advocating all this.

Rather, he was suggesting what may be necessary to prevent catastrophies. He said government must act with more backbone than in the past.

I include at this point in the RECORD the full text of formal remarks made by some of the members of the panel.

REMARKS BY DR. ROSLYN BARBASH BEFORE THE PANEL ON "SOURCES AND USES OF ENERGY" AT THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE, APRIL 18, 1970

Although I am not mathematically inclined, being inhibited by large numbers, e.g., war dead and maimed, arms budgets, number slaughtered on our highways, extrapolated megawatt needs—nevertheless I perceive an equation in society today involving human energy expenditure on one side and manmade and man dispensed energy on the other side. I see a statement—need on the one hand—and seduction to consume on the other hand. I see imbalance. We suffer from an unbalanced energy diet.

Only a few years back, food intake per person was prodigious. Even taking into account greater physical activity, the then accepted three square meals a day provided an amazing caloric intake, and resulted in formation of waste which was not all excreted but was stored as fat (see chart). This antique anatomical chart is shown to demonstrate a change in life style—a change which came about not only through the dress designers but through a growing understanding by physicians and insurance companies that the waste fat did not merely plump up the human frame, but it also invaded the blood as cholesterol, permeated vital organs, caused gout, hardening of the arteries, high blood pressure, stroke. We had to pay a high toll in chronic degenerative debilitating disease and early death for our excess consumption.

So we changed our life style—weight and mortality tables show this clearly. Of course, our food intake is still far from ideal. Its nutritive quality today bears scrutiny. Much surveillance is needed to protect us against pesticides, radioactive seasoning, additives, antibiotics—all those little additional delicacies we so unwittingly and unwillingly ingest.

Now to turn our attention to our life style in regard to our present day environment:

Let us take a day in the life of a commuter between New Jersey and New York. Our hero drives to work as a single passenger in an overlarge complex machine, with a power potential that he cannot use. His car can easily do 90 miles per hour and is most efficient at higher speeds, but he must drive it in the snarl of traffic at a low rate of speed or keep it idling. In either case, he operates his car at least level of efficiency and while doing so creates with his fellow drivers a chemical cauldron which can kill him and certainly adversely affects his well-being. As he inhales the high levels of CO from the exhaust of the car in front of him (giving as good he he got to the car behind) he combines enough CO with his blood cells to affect his brain (eye reflex—time discrimination). If he should have a cardiac problem, his heart which already has stress, because of union of CO and hemoglobin is denied the oxygen it requires. At the same time he receives a morning share of oxides of Nitrogen, oxidants and hydrocarbons all due to an inefficient infernal combustion machine, which cannot properly burn its fuel to harmless ingredients (CO_2 and H_2O) but snatches Nitrogen from the air and in the presence of sunlight sets up a lethal chemical factory in the atmosphere. As these unnatural compounds are inhaled, the entire pulmonary mechanism is ravaged. The sweepers of the lungs (cilia) are damaged, paralyzed, even destroyed. The mucous glands are overstimulated. The movement of mucus is interfered with. This movement of sweeping and mucus transport is a natural method of cleaning or clearing the lungs, the protection against foreign matter and infection. The toxins of the autoemissions interfere with this function. The very cells of the respiratory tract are despoiled. The enzymes are thwarted. The architecture of the air sacs is weakened and destroyed. Steps toward chronic bronchitis and emphysema are taken. Simultaneously particles of lead are corroding the automobile and entering into the *blood* and *bone* of the driver.

Our commuter now passes the generating plant supplying electric power to the area and supplying SO_2 and dust particles to his lungs. The SO_2 rides into his respiratory tract on the easily inhaled dust particles, causing constriction of his bronchial tree and making breathing difficult, while some of the SO_2 is chemically changed in the atmosphere and combining with moisture provided by the humidity forms H_2SO_4 and this caustic mist is carried deep to the air sacs where it shows that it can corrode tissue as well as buildings such as the Obelisk in Central Park in this City. It's a low windspeed morning. There is no vertical air current, the plumes of smoke from the generating plant stack float low, spread out and decrease the general visibility, adding to the discomfort of the driver.

Now our commuter passes meadow lands, scarred and marred by haphazard building use, filled witth filthy streams, garbage dumps. Many of the latter are burning. If his window is open, a cinder flies into his already irritated eye (irritated by the SO_2 and the automotive fumes) and as he cusses and rubs his eyes, grimaces at the odors, his spirits respond to the "beauty" of the scenery, as he struggles with the battle of smoking diesels and fellow drivers. The blight of the scene, the tension of manoeuvering his car, the rise of his blood pressure, these physical and psychical stresses build to monumental proportion. He has yet to pass the industrial complex and take on a load of beryllium, nickel, mercury, asbestos, to name only a few of the identified trace elements. I can only hint at what has not yet been identified. By the time he reaches the tunnel under the Hudson River, that Dante's Inferno of automotive fumes, by the time he is ready to pay his 50 cent toll for the privilege of being stuck in that congested tunnel, have you estimated the tolls he has already paid in damaged blood and tissue?

Meanwhile, at home, his wife, fatigued because their child spent a restless night coughing and wheezing from the rising level of pollution, is muttering in the kitchen. As she ignorantly pours detergent into the washing machines for modern fabrics which are so dirt repelling that they require only mild soap she is oblivious to the irritating enzyme action and unaware of the degree to which she pollutes our water. She is annoyed because of a breakdown in several of the superabundant electric appliances that she possesses for which she cannot find a repairman. Frustrated by a non-functioning electric mixer, the added mental stress causes her blood pressure to rise. However, a happy thought strikes her. She turned to a hand-operated beater and rediscovers that it is efficient, easy to clean and simple to store. The concept of using an item requiring hand power is quickly dissipated by her kitchen TV which is luring her into the purchase of innumerable, newer power supplied gadgets. Lavishly mopping up with paper towelling, wastefully using disposable items, she crossly discovers that the trash basket is overflowing. A cry from the bedroom claims her attention. It is apparent that the child needs medical help. The doctor cannot come—he is bombarded with calls from anxious parents of asthmatic children—"must be something in the air". She must go to the emergency room of the local hospital. The Emergency Room is jammed with emphysema patients, with asthmatic patients, with bronchitis patients, with heart cases, all having trouble breathing. On the radio comes the word—"It's a serious air pollution situation—an inversion—pollution levels are rising this day." On this day, the high level of accumulating air pollutants is more prominent, more noticeable. One actually hears voices of concern, murmurs, "We must do something!" But these other days, when it seems that we are having a good day—the sunshine is visible, the air is still—who notices the brown haze tainting the sky, the invisible toxins insidiously creeping into our systems? The daily unnoticed assaults are doing us in!

We physicians are growing more perceptive. We recognize that children in particular are very susceptible to pollution. These questions crowd into our minds:

1. Are our children the respiratory cripples of tomorrow? Exposed to the toxins and dusts of our badly polluted air, will they be the future bronchitis, emphysema cases, chronic asthmatics? The answer is "Yes"—clearly shown in English studies of school children.

2. Will our children suffer from anemia, have imperfect bone development, be chronically under par because their sunlight is screened out and they receive insufficient natural Vitamin D? The answer is "Yes"—revealed in Japanese studies of school children.

3. Will our children, drinking our water which is steadily declining in quality, and eating seafood from our polluted streams, be the ones to have hepatitis, bloody diarrhea and recurring intestinal upsets? Will radioactive wastes from nuclear power plants enter their cells and cause genetic changes? Dare we answer this?

4. Will our youngsters have sluggish reflexes, slowed mental processes from inhaling the increasing loads of carbon monoxide and other automotive emissions from our over-trafficked streets? Tests indicate—"Yes"!

5. Will our children be the general hard of hearing and hypertensive because of excessive noise? Studies say "Yes"!

6. Are their young bodies accumulating lead, pesticides and as yet unidentified poisons which will bring them disaster in their later years? Autopsies show the poisons accumulating in bone and tissue.

Are we not destroying their heritage, their air, their land, their foods, in our uncontrolled production of the gross national product? As a doctor, a citizen, I feel a dual responsibility for changing our lifestyle. I prescribe the following:

1. For our arterial congestion. Avoid one man one car. Even if we removed 98% of automobile pollution, which is most unlikely, the stress and strain of the congested highway—the accidents, this inefficient means of moving large numbers of people in limited time periods by masses of automobiles, is clearly a foolish method of transportation. My first prescription is clean, efficient, mass transit, using most modern methods, to be taken at least twice daily—on the trek to work and back. Add to this limitation of the number of vehicles on the road.

2. When a patient is completely constipated and wastes cannot move out, we say he is obstipated. Our communities, our air and water, are ostipated by waste. I prescribe controls in manufacture and recycling of wastes. The technology is at hand. Recaptured wastes can be used, markets for such products can be found. Our motto should be "Waste to Useful Products".

3. I prescribe curtailment of electric power production and economy in its use. This will lessen pollution of air and water, will lessen hazards both *thermal* and *nuclear*.

4. I prescribe cessation of ads coercing or luring the consumer into purchasing unneeded power-driven equipment.

5. I prescribe Exercise:

a. Exercise of self-discipline and self-restraint. Let the consumer waste less, reuse more, show his resourcefulness in recycling. Let the consumer exercise resistance to blandishments of the advertiser for unneeded goods.

b. Vocal exercise. Let the voice of the citizen be heard clearly and forcefully at Public Hearings and in the Legislator's ears to influence emerging codes and controls at municipal, state and federal levels.

c. Let the exercise of muscle power come into favor—walking, cycling—good substitutes for jogging and expensive health institutes. Every piece of equipment need not be automated so that our natural muscles become atrophied from disuse.

6. I prescribe better land use. Keep nature's "chemical plants" (trees and open spaces) thriving so that our O^2 supply on land and sea is maintained. Ingredients in this Rx—Restriction on highway expansion, control of Population Density.

7. I prescribe environmental protection councils on which unbiased scientists, ecologists, architects and land planners will have a full voice.

8. I prescribe minimal federal standards, with freedom of states to adopt more stringent standards and encouragement of states to use this freedom.

9. I prescribe every aid to population control.

10. I prescribe a voting age of 18 and faith in our youth who are close to the problem of environmental preservation. It's their world and I wish to restore it to a place of beauty where they can abide in peace, harmony and health.

REMARKS OF FREDERICK W. LAWRENCE BEFORE THE PANEL ON "SOURCES AND USES OF ENERGY" AT THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE, APRIL 18, 1970

(NOTE.—Mr. Lawrence was speaking for himself as an individual and not for the Federal Power Commission, of which he is a staff member.)

One of the major contributors to the pollution problems of the world is the use of fossil fuels. And the United States is one of the largest per capita users of fuel. We burn one sixth of the world's coal, one third of the world's oil and almost two thirds of the world's gas.

And most forecasters—predict a continuing growth in our use of all fossil fuels. Projections of fuel use should, incidentally not be considered as gospel. The history of projections shows that very few have proven to be accurate for more than two or three years in the future. Generally, they have been too low. The increase in fuel use does not necessarily mean an increase in pollution, but it does mean that we will need to be most careful in our use of fuels if we are to avoid pollution problems.

The fuel market in this country is divided into five main uses. Residential, commercial, industrial, electric utility and transportation.

The residential markets generally use sulfur free and ash free fuels. The residential market is probably least responsive to changes in fuel price and probably has the least efficient use of burning equipment; in this market, natural gas and electricity are very important. Oil products are not a major part of residential market except in the Northeast. Here in the New York area, a lot of light fuel oil is used for space heating. Very little heavy fuel oil is used in residential markets anywhere and residential use of coal is almost entirely limited to areas near the coal fields.

In the commercial markets, the fuel prices are somewhat more significant but convenience is also a major consideration. The commercial market leans heavily on light oil, gas, and electricity but coal and heavy fuel oil also supply some of the commercial customers who are price conscious.

The industrial market is a composite of all industries—food—paper—chemical—metals—minerals and the fuel industries themselves. All of these industries use large quantities of fuel.

The primary metals industry is one of the major fuel users particularly coal. The chemicals and fuels industries lean heavily on oil fuels and most other industries lean heavily on oil fuels and most other industries rely largely on gas. In cities like Chicago, Pittsburgh, Detroit, and Philadelphia large volumes going while other industrial enters like Houston and Los Angeles rely almost entirely on gas. The manufacturing industries in New York itself do not use large volumes of coal and oil; there are 10–15 larger markets in the U.S. but when the Jersey industries are added, the New York–New Jersey area ranks about third in the use of high sulfur type fuels. Some industrial markets are sensitive to fuel prices and therefore present a problem because the cheapest fuel is frequently the dirtiest fuel.

Of all the markets for fuel, the utility market is probably most sensitive to changes in fuel price. Many systems have plants that can burn two fuels and particularly in this area there are plants that can burn coal, oil or gas. There are, on the other hand, some plants that are designed for use of only one fuel, and even a shift from one type of coal to another can create problems at some power plants. In addition to the electricity generated by burning fossil fuels, the industry provides electric power from hydroelectric developments and nuclear reactors. These nuclear and hydro plants do not produce the pollutants that some from fossil fuels, but they are *not* without environmental impact.

In the transportation market oil is the only fuel of consequence. Electric cars and natural gas powered cars have been developed, but at this time the gasoline powered automobile, supplemented by diesel trains, trucks and buses and jet planes provide most of our motive power. Few areas fortunate enough to have subways, elevated trains or trolley cars, and electrified railroad service is also unusual.

Providing fuel for needs in these markets is a greater problem. Five or so years ago, the fuel industry did not seem to worry about the air and water pollution. Their concern was to provide good, reasonably priced fuel. Now the fuel and power industries are often aware that they must consider the environment and many companies include the environmental effects in their plans. And probably they will continue to do so long as there is pressure to protect the environment.

This new "clean" approach coincides, unfortunately with a realization that our fuel resources are not the unlimited bottomless well that they were once considered to be.

Coal is, no doubt, our most plentiful fossil fuel resource but now even coal supplies are tight. The vast reserves which have been touted as being sufficient for hundreds of years are being questioned even by some responsible industry oriented spokemen.

Natural gas, which provides the largest part of our fuel production is considered by many to be in short supply. For the past two years, we have not discovered as much gas as we have produced. Our gas reserves once were about 35 times annual production; ten years ago, they were about 20 times production and now reserve-production ratio is at about 13:1. This is without wide scale conversion from coal or oil to gas to combat pollution and without the natural gas powered car.

Our oil position has been one of deficit for many years. We restrict import of oil, but each year we become more dependent on them. This problem was studied intensively last year, by an inter agency task force and the conclusions reached by the majority were severely challenged by some other members of the committee and the whole thing is still up in the air.

Our nuclear resources are not nearly as well known as the fossil fuel resources; nuclear fuel can help supply our energy needs, but there is need for scrutiny of the costs, and of the effect of the environment.

The greater the production of fuel, the greater the cost. Oil leaks in offshore wells, problems of a pipeline through Alaska, coal mine drainage, the loss of valuable wild areas that accompanies the building of hydroelectric dams, the physical damage to coal and uranium miners—these also must be considered as problems complicating our fuel supply picture. Also, there are costs of going deeper into the earth for our fuels, and

the cost of transporting fuel from more distant sources. The costs of burning fuel without polluting the environment are but one of the added costs that may need to be reflected in our fuel bills in the near future.

The question that must be faced is "how can we supply our growing fuel needs without polluting the environment?" The answer is that there is no simple way to do this. An efficiently administered, properly coordinated fuels policy with concern for the environment can provide us with adequate energy and no pollution problems. The implementation of such a coordinated policy would require the cooperation of the fuel industries, fuel consumers and all parts of the government. Research is one of the key elements in helping to solve any problem today and R & D programs can help solve the fuel use-environment abuse problems.

The perfection of processes that will remove certain products of combustion from the stack effluent will enable consumers to burn coal or oil without causing air pollution. Processes that remove sulfur from coal and oil will be similarly helpful. Until such processes are developed, there may be short-term problems in providing fuel that will not result in pollution, and this may strain our resources of gas and low sulfur coal and oil. Low sulfur residual fuel oil, of course, can be imported. The domestic supplies of low sulfur fuel could be increased if the domestic refineries would produce larger volumes of low sulfur residual fuel oil, but it is not expected that there will be an increase in the output of residual oil in the U.S. with the present prices.

To the extent that fuel can be used more efficiently problems will be reduced. Greater effective use of the heat of combustion can increase the value of the fuel to the consumer and can reduce the amount of waste heat, helping abate the problem of "thermal pollution."

This can be accomplished by helping consumer get the maximum effective use from the fuel that is used, or it can be effected by such means as substituting mass transit for private automobiles.

The problem of providing fuel to our economy without the type of pollution that we now have is a difficult one. Scientific research can help, but the necessary R & D programs will not bring higher profits to the corporations in the energy field so the pressure for these programs must come from the people. And the people must realize that as the users of electricity, the drivers of cars and the consumers of the goods that industry produces it is the people who ultimately cause much of the pollution.

REMARKS BY WILLIAM H. MEGONNELL BEFORE THE PANEL ON "SOURCES AND USES OF ENERGY" AT THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE APRIL 18, 1970

The subject of this panel, Sources and Uses of Energy, is indeed a broad one. Even my subpart, the Role of Government, is difficult to discuss meaningfully in a few minutes.

The former speakers discussed several sources of energy, and I suspect that I will touch a little bit on each of their presentations, particularly from an air pollution standpoint.

First of all, I would like to state some fundamental philosophies that are developing or have been well recognized for some time:

1. Air pollution control is accomplished at the source. Pollution should—must—be *prevented* from entering the atmosphere, because once it's there, there's nothing we can do about it but suffer its consequences.

2. It would be far cheaper to prevent and control air pollution than it is to tolerate its consequences. Although we need new yardsticks, besides the gross national product, for evaluating this, benefit-cost ratios of 16 to one recently were reported.

3. New sources of air pollution, wherever located, should be designed and equipped to reduce emissions to the minimum level consistent with available technology. There are not many "boondocks" left, and evidence of national and even global pollution is accumulating. Tall stacks don't prevent pollution; they just spread it further to make sure everybody gets a little. We've got to start thinking of the total atmosphere—not just the six feet nearest the ground.

4. Evidence of harmful effects comes painfully slow, and prudence dictates that those substances that can be prevented from entering the atmosphere should be. We're not going to over-control, particularly if one believes the alarming growth predictions. On the contrary, it will challenge all our resources and ingenuity to keep the planet habitable. We can't wait and see what might happen before we act.

5. Sacrifice of some of our traditional conveniences may be required if we are to preserve some of our resources for future generations.

I would like to turn now to government's role—and I am thinking of Federal, State and local government. As was stated in the "statement of purpose" for this conference: ". . . industrial action and governmental inaction have played the major roles in bringing us to our present disastrous condition, (and) they have been ably assisted and abetted by each individual, ready to reap the personal benefits of convenience and ease". That's about as succinct and accurate a history of our present mess as I could imagine.

First of all, consider industrial *action*. In its broadest context, that doesn't mean only ever increasing production in pursuit of ever higher profits. It means also the actions taken to convince people that they *need* the thousands of useful and useless products and gadgets we all buy (electric knives, can openers, hairbrushes, toothbrushes, pencil sharperers, shoe shiners, blankets); action to convince the housewife she *needs* the convenience of frozen dinners, elaborately pre-packaged foods, throw-away plastics, non-returnable bottles; it took action to convince us we need two tons of chrome-plated steel and 400 horsepower to get one person back and forth to work; the action program also convinced us that we should expect to sleep under blankets on the Fourth of July and that Times Square must be lit up like high noon all night.

All of these actions by industry—and the individual willingly accepted, and now demands, them—have added inexorably to our pollution load. But industrial action didn't stop there. Industry was—and is—active in city halls, State capitals and the Congress to see that as little counteraction as possible is taken to upset the growth curve. They work actively to block legislation or, when it becomes inevitable, to water down its provisions. They threaten to move and warn of high prices.

That brings us to governmental *inaction*. Torn between his mandate to protect the health and welfare and his desire for full employment and a firm tax base, until quite recently the government official actually believed that a clean environment and prosperity are incompatible. Hence, he opted for the status quo. Happily, however, the people have formed what the *Wall Street Journal* calls the "Breather's Lobby", and the citizen's voice is being heard.

Just yesterday, I learned that South Dakota—the last holdout—has adopted an air pollution control law. So we now have some sort of governmental program in each of the 50 States, and there has been tremendous growth in local programs also. It is our job at the Federal level to assist State and local programs—financially and technically—and to fill in the gaps when their performance is inadequate.

I think it is government's job to see that innovations are forced on industry and individuals. I do not believe that many air pollution sources are going to abate and prevent pollution voluntarily. In our competitive society, I don't even believe it's realistic or fair to ask them to or expect them to. Government must overcome its lethargy and pass the necessary stringent regulations and enforce them uniformly and equitably.

Actions will have to be bold. Perhaps measures such as the following will be required someday, unless forthright air pollution control requirements are instituted and implemented without delay—and much more forcibly than one would have reason to believe from past experience:

Banning of private automobiles from downtown urban areas and substitution of mass transit.

Permit burning of refuse only in centralized, stringently controlled incinerators that utilize the heat for power or steam generation.

Rationing of electric power, gasoline and heating fuels—unless much better controls are developed for power generating plants, motor vehicles and heating units.

Limiting production of certain goods unless non-polluting processes are developed and used.

Clearly, I'm not advocating and do not expect that such drastic measures will have to be taken, but it has been suggested—I don't think very seriously—that it may be necessary to put some curbs on the standard of living as a means of reducing environmental pollution. My point is that governmental responsibilities for the protection of health and welfare are over-riding and may require what today may be considered far-out, radical solutions, if only to prevent catastrophes. Government must be prepared to act much more boldly and with more backbone than it has in the past.

The morning panel on "Food: Nutrition and Health" was moderated by Betty Furness, former special assistant to the President for consumer affairs; columnist McCall's. Panel members were Hartley W. Howard, technical director, Borden, Inc.; Herbert L. Ley, Jr., former Commissioner, Food and Drug Administration; Diana Lyons, United Farm Workers, AFL–CIO; Jean Mayer, professor of nutrition, Harvard University, Chairman, White House Conference on Food, Nutrition, and Health; Roy Brown, epidemiologist, member of Tufts University medical team.

I include the report on the panel discussion at this point in the RECORD:

FOOD: NUTRITION AND HEALTH

(By Elizabeth Savels)

Diana Lyons, the first speaker, said that the cause for which the grape pickers are fighting is our cause and relevant to the subject under discussion today.

She said grapes are picked in unsanitary conditions, by workers who are suffering from various illnesses caused by the use of pesticides. There are 11 different types of pesticides sprayed on grapes and of these 6 are extremely toxic and do not break down. The pesticides which are used cause cancer and heart disease, amongst other effects, in humans who consume the grapes on which they are sprayed.

The Food and Drug Administration, she said, is unable to take care of this problem for oddly enough the growing of grapes is not under its jurisdiction but under that of the Department of Agriculture, which is subject to the lobbying of the grape growers. Control of the use of pesticides is entirely within the province of the Department of Agriculture.

The Farmers Union has recently signed contracts with five growers. One of the specifications of the contracts is that six of the hard-core pesticides will not be used henceforth. There will be a union label on containers of grapes from the vineyards of the growers who have signed contracts with the

grape pickers. The growers are sensitive to the power of the consumer, and it is therefore up to the consumer to exercise his power on behalf of the farmers (the grape pickers) and of himself.

Dr. Roy Brown said that it is ironic that while men go hungry potentially productive earth lies idle. In this degree the United States is also one of the "developing countries." In Asia and Africa, and in Mississippi, families starve in sight of plenty. In our world there are too many dependent who are poorly educated to whom services we take for granted are lacking or are inaccessible.

Dr. Brown said the Industrial Revolution arrived in the state of Mississippi only 10 years ago. This is not the only state of which this is true. What has happened to the priorities of a government which pays the senator from one of the states several hundred thousand dollars not to grow cotton. This senator owns land which is potentially productive of food but which instead lies fallow, while in the next country men are out of work and their wives and children are near starvation. However, the senator is in a position to, and does, help determine the government's response to this situation.

Doctor Herbert Ley, Jr. said he grew up during depression times in Kentucky, was in the post-war Japanese occupation forces, and in post-Japanese occupied Malaya. He knows hunger first hand, and what it means to feel helpless and hopeless. The main problems are food and health.

He said there is an absence of a focal point in the government's involvement with food and health. Only three departments should have any major part to play, and the leader of the three should be the Department of Health, Education and Welfare. However, the need transcends the present scope of the Department and this need can be met by Bill No. 2898 introduced by Abraham Ribicoff, to name a Council of Health Advisers in the Executive Department of the government.

He said there is need for a review of and re-evaluation of foods and color additives. We must now permit 1958 legislation, sadly behind the times, to rule 1970. A regular review of the situation should be instituted.

Dr. Ley noted it is necessary to use pesticides in growing our food. But in solving one problem we have raised more. While Miss Lyons gave a masterly presentation on the problem of hard core pesticides, they should not, he said, be banned but should be absolutely controlled.

U.S. inspection of foreign foods imported into this country reveal that they are not of the quality which we are accustomed to in our food.

Dr. Ley said all these problems are capable of being solved. We must insist that they be solved.

Doctor Hartley Howard said that in the business of providing food for the consumer, it is the aim to provide only good food so that the customer will be pleased and will buy more. All foods are chemicals—this has been known for the past 100 years. It is time the consumer became more sophisticated about what he buys to eat and drink, so that he will not fall victim to the horror stories which occasionally delude the public. The world is not a 100% pure place in which to live. We must recognize, all of us, that information about food is necessary.

Doctor Jean Mayer pointed out that the problems caused by lack of nutrition cannot be solved without asking for the opinion of those who suffer the lack. This does not mean that we ignore knowledge and expertise accumulated over hundreds of years. Our present system of handling these problems does not work for many Americans: the poor, the black, the Mexican-American, the Indian, Eskimos, etc.

The United States was founded by those who left the old folks at home, and we have never cared properly for our elderly. We do not take proper care of women or children, nor of the sick. Four million families live in the country under the poverty level. The health of all Americans is not good, in witness to, or in spite of, spending $62 million dollars on doctors, hospitals, and drugs per year.

Dr. Mayer said the quality of the food consumed in the United States rose till 1955, at which time it reached a plateau and has since been declining. White bread and soft drinks are not nutritious.

She said we should cultivate our knowledge of food, we should have obsolete regulations concerning food replaced with current ones, we should provide adequate labeling laws, and we should require changes to be made in the regulations concerning fortifiers, etc.

The main theme of the White House Conference on Food, Nutrition and Health was feeding the poor and improving nutrition for all. The gains made by the conference were more money for the food program and more school lunches.

She said that, as noted by Doctor Ley, there is no central government focus on the matter of food, nutrition and health, and no coordination between the various agencies which do have some concern in the matter.

The citizens of the United States are involved in this matter, as well. It is their privilege and their responsibility to see that the required changes are made.

Miss Furness called for cross-questioning among panel members.

Dr. Brown asked Dr. Ley if he did not agree that too much was being made of vitamins, that they were being used as food substitutes, Dr. Ley agreed that there was no justification for the amount of vitamin intake presently occurring in the United States. Doctor Mayer suggested that if certain elements could not be supplied by food, they must be supplied by vitamins.

Miss Furness asked Miss Lyons how to tell grapes apart on the market. Miss Lyons said that the Union label is an Eagle in a black circle, and this label will be on grapes grown by holders of Farmers Union contracts. Also, grapes found on the market in July. All others are the products of non-union contract growers.

Dr. Howard asked if it would not be too expensive to put all information about the contents on the labels of foods. Dr. Mayer said only the information about the main qualities need be given. If one were buying canned orange drink one would like to know how much actual Vitamin C was contained. Those on diets would like to have the caloric content noted. He added that the President said he would appoint a committee to study the problem. Industry said it would appoint a committee to study it. But nothing has been done. He said it is up to the consumer public to force the issue.

Following were questions from the Audience:

Question. What are the effect on food of canning?

The process is regulated to preserve the nutritive qualities of the food.

Answer. Dr. Mayer: Additives are not all one thing. Some only preserve eatability. We quarrel with those which are not justified.

Question to Dr. Howard: What does the FDA do about supplying information to the public about scandals in food handling and packaging?

Answer. Only a fraction of foods are concerned.

Question to all panelists: What can individuals do to prevent the pouring of fats and oils into our apartment incinerators?

Answer. Dr. Mayer: It is a popular fiction that someone else is the villain of this piece. Environment will continue to be polluted unless we change our way of life. We must avoid putting fat and oil in the trash for our incinerators to burn. It is a question of deciding on priorities.

Answer. Miss Furness: Would making anti-pollution measures into a game help us as saving fat was made into a game during World War II? Can we reward firms such as Cola-Cola, which does not make non-returnable bottles?

Before this question was answered a member of the audience rose to ask a question which began with the phrase: "What would you do if you had the power?" Miss Furness used the phrase to begin her summing up question to the panel: "What would you do if you had the power? and what can we, the consumers, do, with our power?"

Dr. Brown: Write your congressional representatives and state legislators endorsing a central council on food, nutrition and health, endorsing an adequate income for all citizens, and endorsing a broadbased education.

Miss Lyons: If you know a merchant is selling you food that is not clean, don't shop there again, and tell him why you are not going to shop there (otherwise he may never know).

Dr. Ley: Write your representatives in government to take action, to initiate a bill requiring adequate labeling of foods as to their protein, carbohydrate, fat, and caloric content. Urge your representatives to campaign on food values.

Dr. Howard: Make every effort to change the conflicting and limiting regulations and laws governing all aspects of food.

Dr. Mayer: Support and encourage all legislators who advocate a minimum wage, education for all, who will support the Senate School Lunch bill, and the Food Stamp bill. Keep abreast of legislature regarding food, and let your elected officials know you are interested in them.

Most important, right now, is to work for the elimination of the seniority systems in Congress, for it elevates to positions of power, too often, those who are opposed to change.

REMARKS BY HERBERT L. LEY BEFORE THE PANEL ON "FOOD: NUTRITION AND HEALTH" AT THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE APRIL 18, 1970

It wasn't too long ago that I, as Commissioner of the Food and Drug Administration, spoke to audiences of this sort fairly frequently. At that time I must admit that the schedule of speeches and talks was so demanding that I looked back with some longing to earlier days when things were less hectic than at FDA. However, since leaving the agency I find myself missing the give and take of such meetings as this, so I accepted with pleasure the invitation extended by Congressman Ryan to meet with you today. It is my hope that my remarks here today may prove to be a constructive stimulus to the resolution of issues that I see as problems in our area of discussion—Food: nutrition and health.

Let me make my view clear to you at this point. I believe that we in the United States do have problem in the food area, problems which demand solution. Now, I want to identify the major problems as I see them today.

NEED FOR A FOCAL POINT FOR FEDERAL POLICY MAKING IN NUTRITION

The first problem is the present absence of a focal point for Federal policy making in the nutrition field. There are at least three Departments and one Office within the Executive Branch which have, or should have, major roles to play in developing a national policy in nutrition. Unfortunately, the four participants in this particular ball game are acting like a football team without a quarterback. No one is calling the signals for a national nutritional policy. One of the speakers on this Panel, Dr. Mayer, has been highly instrumental in pointing out the need for such policy making. I am in total agreement.

I have advocated since the summer of 1968 that because nutrition is basically a health matter it should be given increased priority and attention by the Department of Health, Education, and Welfare. I am of the same opinion today. I would add, however,

that need for a focal point of Federal policy making in nutrition transcends the active involvement of the Department of Health, Education, and Welfare in nutrition matters. Suggestions have been made that the responsibility for such policy making be assigned to the Department of Health, Education, and Welfare, the Department of Agriculture, or the Office of Science and Technology. I would disagree with all these suggestions. Instead I would strongly support Senator Ribicoff's proposal in S. 2898 for the creation of a Council of Health Advisors in the Executive Office, and assign to that Council the responsibility of developing a national policy in nutrition. Nutritional health of our citizens is such an important matter that to place the responsibility for policy making in nutrition at any lower level would be irresponsible.

NEED FOR A COMPLETE REEVALUATION OF SAFETY OF FOOD ADDITIVES

The second major problem facing us today in the health and nutrition field is the need for a complete reevaluation of the safety of food additives and color additives used in food. I am not indicating by my remark that I consider the present situation fraught with danger. I am indicating my concern that we not sit idly by and acquiesce to the administration of the 1958 Food Additive Amendments by 1958 standards when the past 12 years have brought new scientific and medical knowledge to our attention. My concern leads me to the conclusion that the safety of food and color additives should be reviewed on a periodic basis by the best qualified scientists in our country. Scientific knowledge moves forward irresistably, and a means must be found to incorporate that knowledge on a timely basis with the action of the Federal regulatory agencies.

The step taken last week by the Department of Health, Education, and Welfare to review "prior sanctioned" food additives is a most important step in the proper direction. The actions in progress at this moment by the National Academy of Sciences—National Research Council in setting up a system of review of additives on the so-called GRAS (Generally Recognized as Safe) list are another step in the right direction. But these actions are not yet sufficient to provide a totally satisfactory answer to this problem. A large number of food additives have been approved by FDA in the 11 years since the amendments went into effect. They are no more, and no less, subject to questions raised by new scientific information than the additives in the "prior sanction" or the GRAS groups. Only when all food additives and all color additives are rereviewed on a periodic basis can we be certain of the timeliness of incorporation of new scientific data into the regulatory process.

NEED FOR A REEVALUATION OF SAFETY OF PESTICIDES

The third problem of concern in the food area is that of pesticides. Pesticides are necessary to the efficient production of agricultural products. They provided such advantages that we have forgotten the problems that our farmers once knew in dealing with crop destroying pests. The enthusiasm associated with such success in eliminating one set of problems has led to a totally new set of problems that are not so glaringly apparent as the old ones. I am most pleased to report that the Department of Health, Education, and Welfare's Commission on Pesticides and Their Relationship to Environmental Health has done a most sound job in defining the pesticide problem and proposing a series of responses to solve many of the subordinate problems.

It is very clear to the scientist and environmentalist that the uses of the so-called hard pesticides must be drastically curtailed to those, and only those, situations in which only the "hard" pesticide provides the control needed. Where other bio-degradable pesticides can produce the desired insect control there is absolutely no excuse for the use of the "hard" pesticides. The situation with "hard" pesticides having a long half-life is very closely analogous to the situation that existed with nuclear bomb tests which led to a disturbing increase in the level of radioactivity in the foods we ate and the water we drank, until atmospheric testing was banned. There is one important difference, however. "Hard" pesticides must not be banned, but rather highly restricted in use, and reserved for those special situations in which they may provide the only answer to insect control. If, for example, a massive outbreak of encephalitis were to occur in New Jersey, as it has in the past, one of the "hard" pesticides could be the best means of preventing further cases and deaths in man. For such reasons as these, we must be certain that we do not overreact.

I would also like to suggest that it is time that we look very carefully at new and novel means of insect control—insect hormones, viruses, and other means.

NEED FOR MORE COMPLETE INSPECTION OF FOREIGN FOOD IMPORTS

Lastly, there is a problem in the foreign food import area. American food producers are subjected to inspections and surveillance during the manufacturing process. Foreign food manufacturers importing foods into the United States are subjected only to a token dock-side inspection of canned products with sampling of an estimated one batch of ten admitted to the country. There is in my opinion a need to increase the sampling of foreign food products so that the consumer can be assured that they are equivalent in terms of quality to food products produced in the United States. The need for more activity in this area was pointed up by a report in the Washington papers of the finding of the deadly botulinus toxin in a can of anchoives imported from Spain during the early part of the year. The experience in my own household leads me to believe that spoilage, as evidenced by bulging can ends, is almost inevitably found in foreign canned goods. One can make a very good argument that an increase in FDA activity in the inspection of foreign foods costing only 10 cents per capita can save the consumer many, many times that amount in terms of food spoilage in foreign canned foods.

SUMMARY

I have tried in the brief time allotted to me to summarize four problems in the food area that I believe are capable of solution and which I believe must be solved in the interest of the nutritional, medical and economic well being of the consumer-citizens of our country.

The afternoon panel on "Waste: Collection and Disposal" was moderated by Samuel J. Kearing, Jr., former New York City commissioner of sanitation. Panel members were Frank R. Bowerman, former assistant chief engineer, Los Angeles County Sanitation District; vice president, Land Pollution Control Group, Zurn Industries; Ben Miyares, editor, Food and Drug Packaging; Tom Stokes, director, Environment; Leo Weaver, director Washington office, American Public Works Association and general manager, Institute for Solid Wastes.

I include the report on the panel discussion at this point in the RECORD:

WASTE: COLLECTION AND DISPOSAL

(By Virginia Horton)

Leo Weaver pointed out that the solid waste, which we discard or throw away, has to go someplace—to the land, air or water.

He said that about 40 years ago sanitary land-fill disposals were introduced. The technology is known for eliminating open-burning dumps. We are not making it work for us as it could if we were willing to apply ourselves. Site acquisition is one of the most important problems plaguing city officials all over the country. The citizen is more impressed by what he sees than what he is told will be. Even where the practice is commendable, it is difficult to obtain sites.

Mr. Weaver said that the only thing that makes complete sense is recycling and reclamation. It seems that it is uneconomical to reclaim waste because there is no market for these materials. If we are to encourage recycling and reclamation, we must first do what is necessary to create new markets and outlets.

Mr. Stokes noted that our society promotes growth for growth's sake. The consumer is hooked. The environment is exploited. What would we do, he asked, if the rest of the world consumed and disposed of as much as we do?

We shouldn't let our own responsibility be absolved waiting for the cultural revolution to come. The revolution is happening all around us. If dropping out is not for you, help organize ecological groups.

The packaging industry is an outrageous offender, he said. He suggested you should take your own shopping bag to the store and pull out and leave with the dealer those sections of the newspaper you don't want. You should use returnable bottles where possible. You should return junk mail to the sender.

Ben Miyares said that the packaging industry is a servant of the people, doing their bidding. However, they are concerned about the problems of waste and are trying to do something about them. Seventy-five percent of solid waste ends up in open dumps. Ninety percent of our present "sanitary land fill" is sanitary in name only. Our real concern today isn't just for beauty but for survival. He asked, what is the packaging industry doing about solid waste? He said the industry is considering the after life of packages; collection disposal centers; decentralized control of production, which could play an important role in reclaiming solid waste; lighter weight containers to facilitate reclamation. The packaging industry is putting together a library on solid waste. In the months ahead, he said, we will see a different attitude on the part of industry.

Frank R. Bowerman reported on innovative techniques in the disposal of solid waste. He said garbage cans are a good breeding ground for flies. Plastic bags are much better because they can be thrown away with the garbage. It probably is worth adding to the waste in this instance.

There is a new type of transport system being used on the West Coast: one man, one truck. It works well where collection point is at the curb, Mr. Bowerman said. Public works departments have made it a premium job, paying more.

Pneumatic tubes are used in some apartments to dispose of waste. Now they are too costly, but grinders could grind up much organic material that comes into the home, which could then be carried away from toilets and sinks by sewers. The packaging industry could be influenced to furnish containers that can be so disposed of.

He said composting has very little application because it provides no salable product. Land fills are the cheapest of any solution. We will have to set aside a certain portion of our land for them.

One re-usable material is corrugated cardboard, which goes right back into re-use. Another is waste newspaper, which can be directed back into newspaper if good method of collecting can be found and if it is kept separate from other waste—otherwise, when mixed with grease, etc., it is no longer of any use.

Samuel J. Kearing said that ninety percent of "sanitary land fills" are simply open-air dumps. Incineration, he said, is not a good means of disposal. The price of proper air pollution equipment would be astro-

nomical. The packaging industry's public relations "solutions" are not practical. He said sixty percent of waste in New York is paper and should be pulled out—kept separately.

REMARKS BY LEO WEAVER BEFORE THE PANEL ON "WASTE: COLLECTION AND DISPOSAL" AT THE 10TH ANNUAL WEST SIDE COMMUNITY CONFERENCE, APRIL 18, 1970

Disposal is the point at which "everybody's problem" becomes "somebody's problem." Processing for sequestration in the air, water, and land environment is an apt description.

Dumping and open burning has been the principal means of refuse disposal since man first banded together. Because public health and safety hazards and nuisance values dictated the removal of "middens" from the center of the community to the edge, transport requirements have become a factor. Even before the age of individual packaging, many cities in western Europe and the United States determined that it was more economical to reduce the volume of refuse produced within the city by incinerating it and transporting the residue to land disposal sites. In the late 1930's the English practice of controlled tipping, whereby refuse transported to a land disposal site is compacted and covered, was first applied in the United States as a method and was promptly named the sanitary landfill method. It was further developed and applied by the army during World War II, and by 1956 more than 1,000 communities used some form of compaction-burial technique. Only about one third of that number, however, appeared to be operating "sanitary" sanitary landfills.

At that time almost 300 cities used incineration as a processing method. Few, if any, political jurisdictions, however, had standards for disposal sites and facilities, and limited attention was given consideration of air and water pollution constraints. Particulate control by visual inspection was the measure of efficiency of the operation of incinerators, and the absence of nuisance complaints the most important measure of success. Similar standards applied to landfills. The results of recent data gathering by the state solid waste agencies indicate some 360 of 6,000 land disposal sites surveyed are operated as true sanitary landfills. This would indicate that the over-all number has only slightly increased in the intervening decade. Thus, there are thousands of "dumps" which have been surveyed, but if unsurveyed municipal, private, and "no-owner" promiscuous dumps are counted, there are tens of thousands more.

The technology is available to eliminate open burning dumps. The National Research Council ascribes much of this problem to the continued reluctance of those concerned to come to grips with it and apply existing technology, systems, and organizational know-how to its solution—above all to pay for these services."[1]

Sanitary landfilling has long been recognized as the most economical sanitary method of disposing of community refuse if suitable sites, within economical haul, are available. Economical haul depends upon many factors, not the least of which is the utility of the local road system. Transfer of compacted refuse from collection vehicles to large tractor trailer vehicles has permitted hauls of up to 50 miles to be more economical than centrally-located incineration. On the other hand, highly congested areas can ill afford such conveyances on city streets and most large eastern cities have resorted to incinerating refuse and transporting the residue.

Sharply increased pollution control requirements and increased component costs have resulted in more than doubling capital costs of municipal incinerators in the 1960's. Further, equipment sufficiently sophisticated to meet air pollution particulate requirements is only now being tested under United States conditions. The possibility of using rail or barge haul of solid wastes as an integral part of the community solid wastes management system is being investigated by the APWA Research Foundation through a project cooperatively financed by 26 public agencies, the Penn-Central Railroad, and a demonstration grant from the Department of Health, Education, and Welfare. The study indicates the feasibility of rail transport of compacted refuse to remote areas where the wastes could be used for the public benefit as fill material to reclaim submarginal lands. The final report of this project is now being prepared.[2]

The absence of sanitary landfill-incinerator standards has has a serious adverse effect on United States practice. The previously mentioned National Research Council report alluded indirectly to this absence by referring to historical solid waste management as characterized by "minimum attention, minimum funding, and minimum application of technology." Recommended criteria soon to be published by the Federal Bureau of Solid Waste Management will be very helpful in upgrading landfills and incinerators. There is ample opportunity to design and develop better systems of shredding, compaction, transport, and combustion to meet more stringent, environmental quality requirements; but indications are that fundamental methodology will remain substantially unchanged.

Site acquisition usually is described as the sanitation officials' most troublesome problem. There are too many examples of open burning dumps and air polluting incinerators and not nearly enough examples of good practice. The citizen is more impressed by what he sees than what he is told will be; so when a sanitary landfill is promised where there is a history of open dump operation, the citizen is wary and hostile. Even where commendable practice is in evidence, funds for advance acquisition of sites have been found to be a problem.

There are many examples of land use plans which make no provision for waste disposal sites and facilities. The need for planning and advance acquisition of open space in urban areas has been recognized. But—we have not yet applied the real potential of combining these programs to better meet community needs. There are very good examples of communities working together in consort to solve disposal problems, but there are many more examples of the erection of garbage curtains and the resulting war is anything but cold.

SALVAGE AND RECLAMATION

Review of municipal refuse collection and disposal practice reveals many instances of successful salvage and reclamation programs. It also reveals that many successful programs become obsolete because of technical-economic developments.

A method of garbage disposal known as reduction was at one time popular and productive of revenue. In the reduction process garbage was cooked with steam in digesters. The grease was extracted. The residue, called tankage, was used as feed for livestock, as fertilizer, and as boiler fuel. The grease itself was sold primarily to soap manufacturers. Odors from the process, high operating costs, and a reduced demand for grease by the soap industry due to the advent of detergents resulted in the abandonment of the method. Philadelphia in 1959 was the last city to operate such a plant.

A rubbish salvage plant was operated in Washington, D.C., until 1928. Rags, paper, cardboard, and tin cans were baled, and cullet, bottles, nonferrous metals, and rubber were picked and graded. A more modern municipal salvage plant was built in Detroit in 1945, but it was abandoned in 1947. Presently, there is in Houston, Texas, a privately-operated salvage composting plant. Components of refuse, such as metal, glass, paper, textiles, etc., are separated for reuse by industries. The residue is converted to compost. This plant is receiving a portion of Houston's refuse under a contract with the city involving a unit cost per ton payment to the company for the refuse delivered to the plant.

Attempts to use the organic fraction of community refuse have centered largely on composting. While at least one composting plant has been operating in the United States for a number of years, almost two dozen plants constructed after World War II have failed, presumably for economic reasons, after relatively short periods of operation.

PARTIAL SALVAGE OR RECLAMATION

Despite the lack of success of salvage and reclamation as a principal means of disposal of municipal refuse, large quantities or material from the solid waste stream are routinely salvaged and resold. Many businesses, hotels, and apartment houses engage in or permit salvage of paper and cardboard. When pricing is favorable, volunteer organizations, such as the Boy Scouts, collect newspapers and magazines and sell them to raise activity money. Some public officials responsible for refuse collection and disposal activities think that voluntary collections are the most practical method of conducting a salvage program. Without volunteer workers, house-to-house collections would not ordinarily be economically justified. In fact, campaigns to salvage metals from household refuse during World War II would not have been self-supporting without volunteer workers. Some authorities involved in the wartime campaigns believe that if conservation of materials, such as metals, is the goal, not low-cost disposal, it would be better to separate the materials at the source and collect them in compartmentalized trucks. This would necessitate reversal of the sharp trend toward combined collection or household refuse. But this, nevertheless, is a real possibility if newsprint is considered. There are other examples, too.

Another example of partial salvage or reclamation may be associated with the incineration process. Heat energy released during the burning process may be used for steam generation. The Atlanta Mayson plant completed in 1941 and still in operation is an example. But this is the exception rather than the rule. There are a number of reasons for this. Most often the primary factor is the lack of a large user close to the plant who is able and willing to take the steam on an "as available" basis. Large municipal plants usually operate on a 24-hour-per-day basis, but shut down for maintenance and repairs Saturday afternoon and Sunday. However, it already has been suggested that for air pollution control purposes waste heat should be reclaimed to avoid the necessity of burning other fuels in some metropolitan areas regardless of economics.

RESOURCE RECOVERY FROM INCINERATOR RESIDUE

In 1969 the American Public Works Association, with the assistance of a grant from the U.S. Bureau of Mines, conducted a study to report and analyze the factors affecting metal and mineral salvage programs from municipal incinerator residue.[3]

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[1] *Policies for Solid Waste Management,* prepared by the National Research Council, Washington, D.C. 1969, 56 pages.

[2] *Rail Transport of Solid Wastes,* A Feasibility Study, APWA Research Foundation, Chicago, October, 1968, 159 pp.

[3] *Resource Recovery from Incinerator Residue,* Analysis of Factors that Affect Economic Recycling of Ferrous Metals and Other Inorganic Material Contained in Municipal Incinerator Residue, American Public Works Association Research Foundation, Chicago, November, 1969, 33 pp.

U.S. Bureau of Mines researchers noted the limited salvage activity by municipalities operating incinerators. Discussions were held with the American Public Works Association to try to find out why this was so, and to explore the widely reported conclusions that salvaging is uneconomical.

Lack of available documentation led to an investigation on a community case-study basis of the factors affecting salvage programs.

The investigation was limited to the metal and mineral contents of municipal incinerator residues and did not consider the organic fraction of refuse. However, its potential positive impact on the concept of recycling-reclamation is significant. It was concluded that incinerator residue processing offers an avenue for resource recycling. However, it was determined that there is a fundamental need for research and development geared to the generation of new products and uses for low-grade ferrous metals and particulated glass. More efficient utilization of the nonferrous portion of incinerator residues depends in large part on economic application of metallurgical refining methods; and, most important, the ultimate success of resources recycling from incinerator residue is keyed to the expansion of present markets and to the creation of new outlets for recoverable items.

LANDFILL RECLAMATION

Landfilling as a reclamation procedure has not received nearly enough national attention. If the municipal official is to be successful in acquiring land disposal sites, he must think more in terms of constructive end uses to the community. This must not be done at the expense of meeting healthful-economic community disposal needs, but as a companion goal to this need. Further, constructive evaluation of a particular site must take into account the ecological implications of the program and the over-all long-term community benefits.

FINANCING

Money is a key factor to all concerned with environmental pollution problems, and the matter of financing is basic. There are a number of possible sources of action to provide for financing solid waste management systems. These include application of the utility concept, earmarking of special tax funds, Federal guarantees of risk capital to the private sector, and direct subsidy through a matching grant program. Whatever method or combination of methods may be used, it is important that such financing be geared to the goal of upgrading total community solid waste management systems, not just parts of systems. Further, the involvement of the private sector must be encouraged in a number of vital areas. One is in the innovative development and application of equipment, methods, and techniques. Another is further extension of the concern and resources of the product manufacturing industries from manufacturing and distribution to include recovery and final disposal. The latter would not only reduce the over-all costs of solid waste management systems, but most importantly reduce the level of the disposal problem itself.

In conclusion I want to emphasize that what may appear to the uninitiated to be a simple problem is an exceedingly complex one.

A wide spectrum of cause and effect relationships prevail, including inadequate or no collection and disposal systems, lack of trained manpower, inadequate or inadequately-enforced regulations, budgetary limitations, public apathy, and the like. The net result is that, while we look to the future to develop a social, political, and technological program of resource recovery, we are not doing well enough what we already know how to do. We can no longer afford indiscriminate use of the land of haphazard disposal of our national wealth. We must face up to the need for conserving our land and material resources as a national policy, but we must do this as part of a program of assuring healthful and economic community refuse management.

The afternoon panel on "Conservation and Recreation" was moderated by Nicholas A. Robinson, chairman, Environmental Law Council, Columbia Law School. Members of the panel were George B. Hartzog, Jr., Director, National Park Service; Boris Pushkarev, vice president, Regional Plan Association; co-author, "Manmade America; Chaos or Control"; Dave Sive, director, Natural Resources Legal Fund; Gary A. Soucie, executive director, Friends of Earth.

I include the report on the panel discussion at this point in the RECORD:

CONSERVATION AND RECREATION

(By Elizabeth Savels)

Boris Pushkarev said that there seems to be a feeling that our cities are hopeless as places to live and that we should decentralize.

However, he said that he believes capital should be employed to improve what we have instead of running away from it.

Mr. Pushkarev said we need a green city, and this can be achieved through a number of steps:

(1) Capturing and reclaiming valuable tracts such as the Gateway seashore.

(2) Restore the Palisades; there are 700 acres which could become public park land.

(3) Expansion of public park lands.

(4) Preserve our green backdrop, the mountain ranges of New York and down to Virginia. He noted that Congressman Ryan has introduced a bill in the legislature to authorize a study of the cost of requisitioning this area.

(5) The housing of the city could be made entirely of tall buildings which would leave larger areas for greenery. Coat pocket parks are better than vestpocket parks.

(6) Not every green area needs to be a recreation area. The roadsides of every highway should be reclaimed as green areas.

Gary Soucie said that ideas of conservation developed in revulsion to the depredations of the robber barons, who used the earth and left it ruined.

The ideas were in two main categories: (1) save the earth because it may be needed by us in the future, and (2) preserve various species of wild life.

Gradually new ideas began to animate conservationists. They pressed for the preservation of beauty spots, of curiosities, of examples of scenic or historic interest. Now, of course, conservationists are engaged in the war against pollution.

In the development of national and state parks, in the preservation of scenic and historic sites, conservationists and recreationists have come closer and closer to a concerted position.

Mr. Soucie said that recreation is valuable to the degree in which it is different from everyday life. The role of recreation has been misunderstood for many years but the development of new ideas in recreation has been phenomenal over the last 100 years in comparison with previous times. Actually, we must plan for continual recreation. A lack of cooperation has caused an overlap in presenting recreational opportunities. We need both the will and the wisdom to overcome the overlap and make the goal a reality, and it must be done by us, for no one else will do it for us.

Our government, he said, does respond to the will of the people. We must organize our efforts and present our program with the strength we have when we are working together. We are consumers, we are taxpayers, we are voters, we are shareholders in our own land. Let our elected representatives know that if they are not responsive to our will someone else may get elected to his office next time. Recognize the facts that there is a system of seniority in government which determines which representative of the people gets what he asks for and when, that there are sources of appropriations which wish to control that for which appropriations are made, and that if it means an increase in taxes, to do our will, we ourselves will pay that increase.

Take everything into consideration; then use our power to get what we want.

George Hartzog said that Government has tried to work in partnership with the people in preserving historic sites, natural curiosities, recreation areas.

In 1872 it established Yellowstone National Park, and later added Glacier National Park, the Grand Canyon, the Great Smokies, the Blue Ridge, Cape Hatteras, Spanish ports and missions, and Jamestown Colony. In 1933 the Antiquities Act was passed and cemeteries and battlefields were transferred to preservation to the National Park Service.

The National Park Service, he said, has as its goals environmental education; man's relationship to his world, the Parks to People program, and the task of making parks meaningful in the lives of the people. Under the latter plan a "Summer in the Park" program has been instituted. There was a pilot program tried in D.C. last year which may be brought to New York City in 1970.

Dave Sive said there are two continuing problems in the world of conservation and recreation: 1) the term conservation is vague to unintelligible for those who never have a chance to see the sky, and 2) apathy, the lack of care, for what happens to our earth.

He said a story is told that in the rural areas of Europe, in World War I, after every battle the townspeople gathered and planted the battlefield with trees.

How do we reach ordinary, everyday people with the message that they must for their own sakes stop throwing paper, cans, plastics, about them as they live their daily lives. They must stop setting buildings and grass and woods on fire. We ourselves are the everyday, ordinary people, and we can begin by not doing these things ourselves. Our motto should be "Every blade of grass is a handkerchief of the Lord".

It was pointed out that members of the audience joined in the discussion. There are spots in the United States where the trees are all the same height, planted in 1932 and 1933. The idea of doing common labor and doing it together is not foreign to the U.S. Another member of the audience pointed out that the trees planted in 1932 or 1933 could easily have been the work of the CCC.

One person said that in order to get people to care about their own environment the idea of discipline must be inculcated. One of our stumbling blocks here is that the young people who are, or say they are, most interested in ecology, are most opposed to discipline. Another member of the audience told of a Block Association which bit by bit and little by little made of its block a place of cleanliness and some beauty. It was noted that as the block improved so did the attitude of those who lived on it toward their environment. They developed a respect for their block and took pride in keeping it up.

Gary Soucie said that the Swiss ran out of resources 100 years ago and faced the music. They teach their children that no one else will clean up his messiness, that they all live in one place, and are all one people.

One member of the audience said that the Ecological Coalition suggests that we join together to make our contribution and to learn from experts how to care for our environment.

Question to George Hartzog: Has there been any contribution or sharing of experience toward development of a national program of conservation and recreation or of developing cultural and historical interests?

Answer: The Government Printing Office, through the Superintendent of Documents, has material put out by 19 different agencies. The President's Council on Historic Preservations supports local efforts in that field by offering matching grants.

Question. To the panel: Should planned communities be avoided?

Answer. The government has no funds for any such national program.

A. Boris Pushkarev: Discipline implies the application of external force. One of those forces could be the dollar. Tax those items which desecrate the parks to pay for park maintenance.

A young man complained that only teen age persons were really interested in the problems of ecology. He had found that parents won't listen in any attempt at discussion on the subject.

A member of the audience said there must be a redefinition of freedom. As a people, we have never assumed responsibility for our actions. There should be a philosophical revolution to create responsible capitalism. Our writers should use conservation as the new spearhead. As far as we now know there is only one small area of the universe where human life can be sustained, and that is in the dimension of the circumference of this globe and the 17 miles of earth's atmosphere containing oxygen. We have only this amount of space and this amount of oxygen. And our oxygen supply will deplete dangerously if we do not preserve our green regions in large areas.

George Hartzog noted, man must change his environmental education. The cost ratio is an out-of-date concept. It is fine for a flood control project to be turned into a land reclamation project, but if you build an airport on that land, you have taken a step backward instead of forward. We cannot change our environment without changing our zoning laws. Zone for beauty—for every tree removed by a development builder, two must be put in its place; for every block of cement laid, two must be set in grass.

Question. If we need to protect our world, what does our Constitution and body of laws do for us?

Answer. Very little, as they now stand. There should be a National Conservation Bill of Rights. We must curb the power of regulating agencies, expand the rights of citizen groups, allocate more money and more resources to the problem. A member of the audience suggested that while we were discussing allocations, we might think of allocating more time to bring children and parks together.

George Hartzog said the Federal Government will participate in capital expenditures toward creating parks, etc., but the operating expenses will be the responsibility of the local community.

The afternoon panel on "Water: Pure or Polluted" was moderated by John Clark, acting director, Sandy Hook Marine Laboratory. Panel members were Robert H. Boyle, senior editor, Sports Illustrated, author, "The Hudson River"; Maurice M. Feldman, New York City, commissioner of water resources; Gerald J. Lauer, New York University Institute of Environmental Medicine; James M. Quigley, former Commissioner, Federal Water Pollution Control Administration; former Member of Congress.

I include the report on the panel discussion at this point in the RECORD:

WATER: PURE OR POLLUTED

(By Sylvia Diaz)

Robert H. Boyle suggested that water pollution could be controlled by using the New York Harbor Act of 1888 and the Federal Act of 1889.

Under these laws, it is a violation for people to discharge refuse into New York Harbor. Persons reporting violations may receive one-half the fine imposed on the violators.

Mr. Boyle further stated that the Hudson River Association, on checking on the problem of Water Pollution, had discovered that among the different violators, for example, the Pennsylvania Central Railroad dumps tons of oil into the water. He reported that last fall the Railroad had to pay a fine of $4,000. The Association will take $2,000, to look for more violators.

Mr. Boyle said violators can be reported to the Army Corps of Engineers.

Maurice M. Feldman said Mr. Boyle had a rather direct solution to water pollution by policing and fining. He said this was a great method of handling this situation. He added however, that the water pollution is also caused by chemical deposits, polluted waste water coming through polluted water-ways. He indicated that there are now plans for 12 treatment plants, and two are already under construction. The plants will remove 95 percent of the pollution permitting a maximum development of fish life.

He said that engineers have been working on purifying water for drinking purposes. In building treatment plants, he said, there is always the problem of where to build them. People usually oppose an adjacent site. Another major problem is the cost; who is going to pay. Plans have to be presented and approved. There is always a problem in communicating with the people in terms of clarifying the complexity of the problems involving the dollar value and the ultimate benefits.

Dr. Lauer said that pollution was a personal matter since everyone is a polluter. He indicated that water pollution and air pollution are inter-related.

Dr. Lauer pointed out the ratio of pollution from people and from industry was about 1.5 people to 1 from industry. Dr. Lauer further indicated that many experts are concerned with the possibility of diseased drinking water.

Dr. Lauer stated that more and more people not experts in pesticides are discussing the problem; there is a lot of misinformation being given out to the public.

John Clark spoke on people pollution and industrial pollution. He said the ratio may be five to one.

Mr. Clark said that the growth of America has by-passed water pollution. However, millions of dollars have gone into construction of sewage treatment plants. It was further brought out that part of the delay in any great changes in the problem of water pollution was due to politicians tendency to investigate how the costs would affect taxpayers. It was also stated that no change was coming in the immediate future; the 1970 system is the same as the 1930 system.

Question to the panel: Is there any supervision on Union Oil and factories.

A. Yes, Legislation is being presented to tighten up licensing.

Q. Why do tankers pump oil into waters to clear their hose lines?

A. The Coast Guard should check if tankers have equipment so they cannot leak oil into water.

Mr. Quigley said that jurisdiction is very narrow on control of pollution, and the approach should be broadened by Federal Government.

IMPORTANCE OF AGRICULTURAL RESEARCH

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

Mr. POAGE. Mr. Speaker, Dr. C. L. Lundell, the director of the Texas Research Foundation, at Renner, Tex., has written what seems to me to be an outstanding article which appeared in the October 4 edition of the Dallas Times Herald. His article points out the importance of agricultural research. This type of research is one of the best investments that can be made with our tax dollar. Unfortunately, only a small percentage of our citizens recognize its tremendous value. Agricultural research comes into focus only when we have problems such as the problem we are having this year with the corn blight. Agricultural research has been of great benefit to all American people and I am delighted to make Dr. Lundell's excellent article available to my colleagues.

CROP RESEARCH HIGH PRIORITY

(By Dr. C. L. Lundell)

City people who know very little about farm production have been aware recently that a short corn crop can suddenly increase their cost of living.

The recent corn blight epidemic has made major news in big city newspapers and on national television. Yet, there are some things about the situation which need to be understood by everyone: (1) the need for continued research in agriculture; and (2) the idea that a shortage could exist in a crop where all we have heard is "burdensome surpluses."

No other commodity in agriculture has had as much research as corn. This crop was grown by the Indians when the Pilgrims landed. It is a major crop for feeding livestock as well as for food for humans. Researchers have spent years and millions of dollars in improving this crop. Corn was the first crop to be hybridized.

Often to the layman it would appear there could be no need for additional research on corn. Everyone has taken it for granted that we'll always have corn in abundance.

Research—as we have all heard for years—is the key to the future. But few outside of scientists fully realize how true this is until a calamity hits. Then, in some cases, it is too late for research to help. So, there is a constant need for research in agriculture—research at all levels. This we have always emphasized at Renner.

The new race of fungus in corn apparently developed as far back as 1963. It thrives on those corn hybrids that carry the "T" gene for male sterility. To the average person that may not mean much, but 70 to 90 per cent of corn hybrids grown in this nation carry the "T" gene. So, virtually all corn could be susceptible to it.

The disease exists from Texas to Florida and into the major corn production areas of the Mideast.

Control is almost impossible, if not financially prohibitive. The best control is the use of resistant lines. Companies producing corn planting seed are stepping up production of existing non "T" cytoplasm forms of hybrids for use in the 1971 season. Winter seed production will be expanded in Mexico and South America.

Just how serious the situation is won't be known fully until the corn harvest is complete in the Midwest. But serious or not, this predicament should convince everyone once and for all of the vital necessity for continued agricultural research.

The corn blight story should also put into proper focus those "burdensome farm surpluses which are a drain on the taxpayer" as one critic explained the farm production story. Often these "surpluses" represent not more than a six month or a year's supply.

The fact is: our so-called surpluses are not surpluses at all. They are insurance against disasters such as might have occurred through the present corn blight problem.

And at best, they are a short-term insurance. Enough extra production which would

take up only a season's failure could hardly be described as a millstone around the taxpayer's neck. The stocks on hand are the best assurance we have of providing for an emergency.

Imagine, for instance, if worst did happen and we lost most of the 1970 corn crop or the crop of 1971. And you don't have to confine it to corn. It could happen to grain sorghum, another major feed grain, or even to wheat.

This would cause a chain reaction throughout our agriculture and would cause shortages in livestock feed as well as feed for poultry.

How high would the cost of meat go then? And even more important, would there be sufficient meat or poultry to go around at any price? We might even see $2 hamburgers!

No one wants this situation to ever come about, but those who would suggest that agricultural research be lessened are, in fact, setting the stage for catastrophe.

It's difficult to even imagine we could have a shortage of food. The corn blight problem, shows what can happen.

Think this over the next time you are asked to support agricultural research!

AIR TRAFFIC CONTROLLERS SHOULD BE REINSTATED

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

Mr. MOSS. Mr. Speaker, in March 1961, President Kennedy requested the FAA to conduct a scientific review of the Nation's air traffic control system. The purpose of the review was to prepare a long-range plan to assure safety and efficient control of all air traffic within the United States, an area of primary responsibility of the FAA. A report was issued soon thereafter setting out general guidelines for a modern air traffic control system for the FAA to develop and implement a system designed to meet the Nation's air traffic control needs through the 1970's.

Now, nearly a decade later and already into the 1970's, no significant element of the new air traffic control system recommended in that report is either in operation at the present time or foreseeable in the next several years.

The seriousness of this delay is highlighted by the fact that during the past 10 years, the growth of air travel exceeded all expectations. In fiscal year 1960, some 2,135 commercial aircraft generated approximately 50 million domestic revenue passenger enplanements and 30 billion domestic revenue passenger miles. In 1970, some 2,689 commercial aircraft will produce 157 million domestic revenue passenger enplanements and almost 100 billion domestic revenue passenger miles.

During the same 10-year period, private aircraft have virtually doubled in number to 133,000 with a corresponding increase in operations. While there have been increases in the capacity of the FAA's air traffic control system during this time, they have not kept pace with the expanding need. For example, there has been no significant technical improvement in the equipment available to the Nation's air controllers.

As the 1960's drew to a close, the Nation witnessed the beginning of a new phenomenon—the complete saturation of some of our largest airports and others fast approaching similar congestion. It is evident that the Nation faces a continuing shortage of adequate airport capacity of critical proportions throughout the 1970's.

This deficiency will continue to place an even greater strain on the Nation's already overburdened air traffic control system as aircraft become impacted in terminal areas. Meanwhile, an inadequate number of air traffic controllers at the Nation's en route centers and at the airports with surveillance radar and control towers must continue to bear the brunt of FAA's failure to increase air traffic control capacity coincident with the rapidly increasing requirement. For example, the number of journeymen controllers has increased only about 20 percent in recent years while the air traffic they direct increased more than 100 percent in the 1960's.

It is in this framework that the current FAA–PATCO—Professional Air Traffic Controllers—dispute evolved. With near misses and midair collisions mounting in numbers and with understaffed controller groups working long hours with obsolete equipment pressures on the air traffic control system intensified as aircraft congestion thickened over major airports. For example, a near midair collision occurred recently at the Tulsa Hi sector of the Fort Worth center. It should be noted that the controller working this complex sector was controlling between 10 and 12 aircraft at the time of the near miss, and in addition, had only 1 day off in the previous 17 days prior to the near midair collision. At the time of the incident, it is reported that the sector was understaffed. Ten hours a day, 6-day work weeks are apparently common in this pressure-filled, highly technical, and extremely critical occupation.

To call attention to their personal plight—but more important—to publicly focus upon the deplorably unsafe condition of our Nation's air traffic system, an estimated 3,000 controllers from New York to Honolulu reported sick during the period of March 25 to April 15, 1970.

As a result of this action, approximately 60 air traffic controllers have, without due process, been arbitrarily fired from their career jobs. Reportedly, the number of firings will exceed 70 when the FAA has completed its punitive action. Some were allegedly fired for being leaders in the sick-out while others apparently were fired for making public statements about deficiencies in air traffic control equipment and manpower which in the eyes of the FAA "undermined public confidence." Apparently, the FAA operates on the theory that what the public does not know, will not hurt it.

By its action, the FAA has deprived these controllers of their only livelihood and has further endangered the flying public by depriving the Nation's badly overloaded air traffic system of their rare and valuable skills. I might mention that employees of the Post Office and the Government Printing Office, who recently took actions similar to the controllers, were not subjected to any such harsh treatment.

It is not necessary to take a position on whether the FAA or PATCO was right or wrong in the sick-out to see that the FAA's action in punishing some controllers by firings and still others by suspensions can only aggravate a very serious problem.

The FAA cannot afford the luxury of being thin-skinned at the expense of the public's safety. The time has come for old wounds to be healed and for the FAA and PATCO to reconcile their differences with a spirit of cooperation and mutual respect.

In the first sentence of its most recent annual report, the FAA acknowledges that it is charged with the responsibility for safe and efficient air travel. It can take a step in this direction by immediate discontinuance of further dismissals and reinstatement of those controllers already fired, along with a restoration of their back salary and any other benefits they may have lost. In this way the existing atmosphere of fear and hostility would be reduced and at the same time the country would again derive the benefits of its most precious resource—the labor product of its people; in this case, the peculiarly talented and particularly needed skills of the air traffic controller.

Mr. Speaker, the House should act promptly to hear and pass the resolution, House Resolution 1234.

OUR PRISONERS OF WAR

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

Mr. CEDERBERG. Mr. Speaker, I want to take this opportunity to express my very deep concern regarding the treatment of the men of the U.S. Armed Forces who are being held as prisoners of war by the North Vietnamese Government and the National Liberation Front. This is also a deep-felt plea for public backing and support for all efforts being made to obtain the release of our men. To commit ourselves as a nation to a program designed to make our outrage as a united people felt in Hanoi.

It is a cause of grave concern that each time a member of our Armed Forces escapes or is released by the North Vietnamese we are visited with tales of horror about the treatment of men who were their fellow prisoners. Over 1,500 Americans, captured or presumed to be captured in Southeast Asia, are held under conditions of cruelty not duplicated anywhere else in the world.

The human suffering of the men who are being held captive in this manner is certainly enough of a cause for our indignation. The fact that the Geneva Convention is not followed by the North Vietnamese or the National Liberation Front extends this suffering to the members of our soldiers' families and to their friends. It is a constant source of amazement to me that a government which professes that it is prosecuting a war "for the people" would so blatantly disregard the call for the recognition of simple human needs.

The time has come to act upon our obligation to alleviate the plight of these men.

President Nixon proposed, "that all prisoners of war, without exception and

without condition be released now to return to the place of their choice." This would be a simple act of humanity.

We are not asking for the release of men so that they may be returned to the battlefield, we are asking for recognition that these men are human beings. The other side has our absolute guarantee our men will not return to war.

We are asking that it be recognized that they have right to medical treatment for their injuries; that their loved ones have a right to know if they are alive; that they have a right, a human right, to be allowed to communicate with those they love.

I wish to express to the thousands of people who are members of the families and friends of our men who are being detained in North Vietnam my sincerest sympathy in their suffering and pledge my wholehearted support for any initiatives which can be taken to see that the North Vietnamese Government and the National Liberation Front honor the requirements of the Geneva Convention.

ROCHESTER, N.Y., BOMBINGS

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

Mr. HORTON. Mr. Speaker, early this morning, my home city of Rochester, N.Y., was the scene of what can only be described as a reign of terror. The city suffered five bombings—including the Federal office building, the Monroe County office building, two inner city churches, and the home of a labor leader. Fortunately, no serious injuries were reported.

If this wave of explosions, is connected with other bombings and bomb threats which have occurred across the country, then we are at the brink of a national emergency where the safety and peace of mind of every American citizen is threatened.

Those who for some self-proclaimed reasons have set themselves above the law and have martyred themselves by engaging in these acts of violence are not legitimate reformers or even revolutionaries. It cannot in any sense be said that they seek any changes or improvement in our society—rather, they are seeking an insane brand of power for themselves—and they are seeking it by instilling fear in American families through random destruction of life and property.

A recent report by the Treasury Department shows how dangerously close to the brink of anarchy our Nation has come. In the past 18 months there have been nearly 41,000 bombings, bomb attempts, or threats.

A leading U.S. Senator, Senator MARGARET CHASE SMITH, warned us earlier this year that if Americans are forced to choose they will reluctantly choose repression over anarchy—for the majority of our citizens will not and cannot tolerate a situation where constant fear and destruction becomes a way of life.

Those responsible for these acts must be found and punished without resort to oppressive measures outside of our laws. Our goal must not be to pit half of America against the other half in a repressive fury.

Last week, the House of Representatives took a major step toward sharpening the teeth of our criminal laws to meet this threat. We enacted S. 30 which contains a comprehensive strengthening of laws governing explosive devices, their use and distribution, under title XI. The Rochester bombings and others around the Nation make it imperative that States and localities enact similar laws so that terrorist acts coming under their jurisdiction can be properly and forcefully dealt with.

Mr. Speaker, there are many Americans who seek peace, and seek governmental reforms and better responses by government to human needs. But most of these concerned citizens are staunchly opposed to both violence and repression. In my view, those perpetrating these bombings are trying to provoke repressive acts, and to establish an atmosphere where reforms and improvements cannot take place. They must not succeed.

These terrorists must be weeded out and punished under our constitutional laws and system of justice—so that we can go about the business of improving the lives and opportunities for all Americans in an atmosphere of freedom—not of fear and violence.

INDEMNITY FOR FOOD MANUFACTURERS FOR LOSSES SUSTAINED THROUGH USE OF CYCLAMATES

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

Mr. MICHEL. Mr. Speaker, Sunday, October 18, will be the anniversary of the day a year ago when the Department of Health, Education, and Welfare and the Food and Drug Administration without warning and in the drama of a called press conference banned the use of cyclamates. The action was taken because HEW took the position that it was required by law to invoke the Delaney clause in the Food, Drug and Cosmetic Act on the basis that animal tests by a major manufacturer of cyclamates had produced cancer in test animals.

Cyclamates had been used commercially since 1950. They were put on the "generally recognized as safe" list, the so-called GRAS list, by Food and Drug following enactment of the Food Additive Amendments to the law; they were authorized for use in food standards for canned fruits, and in April 1969 the Food and Drug Administration further approved their use by publishing in the Federal Register proposed maximum total daily intake levels. With this accumulation of assurances from the Food and Drug Administration of the safety of cyclamates, food manufacturers used cyclamates.

As Members of the House know, legislation to indemnify food manufacturers for the losses they have sustained is pending before the Judiciary Committee. The bill, H.R. 18485, by Mr. SISK has the bipartisan support of 20 cosponsors. With the ban on cyclamates becoming complete on September 1, the extent of the industry's losses can be ascertained. It is time, therefore, for the Judiciary Committee to begin consideration of the indemnification legislation.

THE APPROPRIATION BILLS FOR FISCAL YEAR 1971

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

Mr. MAHON. Mr. Speaker, on tomorrow or Wednesday, I shall put an extensive statement in the RECORD in regard to the appropriation bills and spending measures otherwise. Today, I wish to present a brief summary as to the appropriation bills, including the vetoed independent offices-HUD appropriation bill.

IN THE HOUSE

The House has now passed all the regular annual bills. In House actions we have made net reductions—and I am including the vetoed independent offices-HUD bill—of $2.5 billion below the budget requests. If the vetoed bill is not considered, then we are about $2.7 billion below the budget requests.

IN THE SENATE

In the Senate, nine of the regular appropriation bills, including the vetoed independent offices-HUD bill, have been approved. The Senate has made a net increase of $2.5 billion above the President's budget requests. If the vetoed bill is excluded, the increase above the budget would be about $1.4 billion on the other eight bills.

CLEARED CONGRESS

Eight of the 14 regular appropriation bills have been approved by the Congress and sent to the President. Taking into account these bills, there is a net increase above the budget requests of nearly $800 million. Excluding the vetoed independent offices-HUD bill, the net increase above the President's budget requests in the other seven bills is $230 million.

ESTIMATED REDUCTION IN APPROPRIATIONS BUDGET REQUESTS

Some of the larger appropriation bills have not yet passed the Senate, and a new independent offices-HUD bill must be acted upon. After thoroughly exploring the possibilities, I think it can safely be said that Congress, at this session on the appropriation bills, will be under the fiscal year 1971 budget requests in the general area of about $1 billion.

FRANCIS BROWN TO STEP DOWN

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

Mr. MONAGAN. Mr. Speaker, Friday's newspapers carried the report that Francis Brown, editor of the New York Times Book Review for the last 20 years, will retire at the end of 1970.

Mr. Brown should not be permitted to lay down his editorial burden without an expression of appreciation for the magnificent work that he has done as the Nation's foremost literary editor since 1949. In that period he made the Book Review the most widely distributed literary publication in the country, but he gave it a

cachet of integrity and good judgment which made it the most judicious and respected as well.

I have known Francis Brown since my days as an undegraduate at Dartmouth and as a fellow alumnus I have followed his career with pride in his achievements. As a teacher at Dartmouth, an Editor of Current History magazine and an author, he has proven his ability and has made a noteworthy record. It is in his long years of guidance of the Book Review, however, that he has done his most significant work and his imaginative, broad and understanding editorship has been a potent force in preserving some standards of taste and literary distinction in these times of artistic and cultural revolution.

I know that my colleagues will wish to salute the retirement of a man of this distinction, as I do, and for their further information I shall include with my remarks the news story concerning Mr. Brown's resignation which appeared on October 9.

BROWN IS LEAVING BOOK REVIEW; LEONARD TO TAKE OVER AS EDITOR

Francis Brown, the editor of The New York Times Book Review for the last two decades, will retire at the end of the year, it was announced yesterday by Arthur Ochs Sulzberger, publisher of The Times.

He will be succeeded by John Leonard, a daily book reviewer for The Times and formerly an editor on The Book Review.

Mr. Brown, who is 66 years old, joined the staff of the Sunday department of The Times in 1936, and was editor of the Review of the Week section.

He left The Times in 1945 to become a senior editor of Time magazine, but returned four years later to head The Book Review, which, as part of the Sunday edition of The Times, has a circulation of more than 1,400,000, making it the most widely distributed literary journal in the country.

Before joining The Times, Mr. Brown, a 1925 graduate of Dartmouth College, taught history at the college for three years. He earned his master's degree in 1927 and his doctorate in 1931, both from Columbia University.

AUTHOR OF 3 BIOGRAPHIES

He began his career in journalism in 1930 as an associate editor of Current History magazine, then published by The Times. He is the author of a number of books, including three biographies, "Joseph Hawley, Colonial Radical," published in 1931; "Edmund Niles Huyck: The Story of a Liberal," 1936, and "Raymond of The Times," 1951.

A PROGRAM TO ESTABLISH BOTTLED DRINKING WATER HEALTH STANDARDS

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

Mr. MONAGAN. Mr. Speaker, I am today introducing legislation to establish and carry out a program to set bottled drinking water health standards.

In the last decade the bottled drinking water industry has virtually exploded in activity. Increasd affluence has permitted many more citizens to purchase this commodity. More importantly, water pollution scares have spurred bottled water sales. Each new pollution report brings additional customers to the bottled water companies. People who are wary of the quality of municipal water supplies or unhappy with the taste of the chlorine used by municipalities to kill bacteria have created substantially increased demand for privately processed and bottled water.

Industry has responded to this demand. Many supermarkets now stock jugs of water for their customers. In southern California, bottled water is delivered each day in the same fashion as milk or orange juice. Vending machines have become another source of supply.

Because of industry's sudden growth, detailed statistics on the sale and consumption of bottled drinking water have yet to be compiled. However, available statistics do reflect how widespread the industry is becoming. The Water Resources Division of the Department of Commerce has private industry estimates that $100 million worth of bottled water will be sold in 1970. This figure is up from $60 million in 1960 and $63 million in 1964. Los Angeles, the biggest user, has an estimated minimum of 500,000 customers.

In light of this substantial growth, it is surprising to note that no specific and uniform Federal standards exist in regard to the quality of bottled drinking water. State regulations exist, but while some States have stringent standards, other States have general regulations only. Some areas have no regulation at all. In addition most States have no regular system for checking the health quality of bottled drinking water products.

In most instances, private industry has proved responsible in maintaining at least minimum health standards in its products. However, with no specific, uniform guidelines, industry will not be certain of its responsibilities, and consumers will have doubts about the adequacy of their protection. Only last month, for instance, the New York State Department of Health requested producers of a particular brand of bottled water to remove all containers from store shelves pending further bacteriological studies. This followed an earlier report from Vermont health officials that an excessive bacteria count had been found in one sample of the water which is packaged by these producers in plastic-lined containers.

This uncertainty must be eliminated. Our citizens are entitled to the security of knowing that the bottled water which they purchase is absolutely safe for drinking. I am therefore introducing legislation to insure that security. This bill will empower the Secretary of Health, Education, and Welfare to prescribe minimum health and safety standards for bottled drinking water if after scientific investigation he determines that such standards are necessary. These standards will cover spring water, distilled, and fluorinated water, or any other bottled water product which the Secretary finds in need of regulation. It will then be illegal for any producer or distributor of bottled drinking water to transport in interstate commerce those bottled water products which fail to meet these minimum standards. Those producers or distributors who violate the statute are subject to a restraining order and a penalty of not more than $1,000.

This legislation will provide uniform standards for bottled water and insure the safety of the growing number of consumers of this product. Thus far, bottlers have created substantial businesses only in California, Texas, and Florida. However, the industry is growing rapidly, and we must provide adequate regulation now. The safety and health of bottled water drinkers must not be left to chance.

PERMITTING FBI AGENTS TO INVESTIGATE BOMBINGS

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

Mr. SMITH of Iowa. Mr. Speaker, on July 15, in a statement to the House Judiciary Committee, I pointed out that the Nixon administration's antibombing bill submitted to Congress in March would repeal a vitally important 1960 law giving the FBI authority to investigate the bombing of churches, residences, and other buildings.

The Civil Rights Act of 1960 contains a provision that the intent to use, or the use of, explosives automatically creates a presumption that the explosives were transported in interstate commerce and that is an extremely important provision because it gives investigative jurisdiction to the FBI when bombings occur and allows the Federal Government to use its resources and expertise in assisting State and local law-enforcement officials while the trail is still hot.

The administration later partially modified its bill and, as passed by the House of Representatives on October 7 the proposal would make it a Federal crime to use explosives to damage or destroy a building owned or leased by the Federal Government, a building owned or leased by an organization or institution receiving Federal assistance or a building used in interstate commerce or in any activity affecting interstate commerce but excludes residences, churches, and other buildings. At the same time, the administration actively supported efforts to repeal the 1960 law giving the FBI authority to investigate bombings of all types of buildings and, largely as a result of the administration's efforts, an amendment to retain this 1960 provision was defeated.

In short, when the administration-supported bill becomes law, the FBI will no longer have any authority to investigate bombings of churches and residences.

Until this weekend, the administration has not been exercising the authority it now has under the 1960 law for the FBI to actively investigate bombings. Instead, the administration has been urging increased penalties for bombing of certain buildings and has all but ignored the need for apprehension. Obviously, increased penalties are only of use when those responsible for terrorist bombings are first arrested.

Over the weekend, President Nixon authorized the FBI to begin investigating bombings and thus acknowledged they had the authority. This morning, according to press reports two churches and one residence were bombed in Rochester, N.Y. Since the administration

opposed the amendment to retain the authority to investigate certain classes of buildings, and since the new law therefore repeals part of the investigative authority in the 1960 law, the FBI will be without the authority to help apprehend terrorists who bomb both churches and residences when the administration-sponsored bill becomes law.

If the FBI is without authority to investigate bombings of churches and residences, there will be a serious loophole in the Federal antibombing laws. I therefore call upon the administration to immediately stop opposing retention of this vitally important provision of the 1960 law so that the FBI will be able to investigate all types of terrorist bombings and thus at least help local authorities solve such crimes.

AUTHORIZING THE CLERK OF THE HOUSE TO MAKE CHANGES IN ENROLLMENT OF THE BILL, H.R. 17654, LEGISLATIVE REFORM BILL

Mr. COLMER. Mr. Speaker, I offer Concurrent Resolution 778 and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 778

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, the Clerk of the House of Representatives is authorized and directed—

(1) in paragraph (6)(c) of Rule XXV of the Senate, as amended by section 132(d) of the bill, to strike out "subparagraph (a)" each place it appears and insert "subparagraph (b)"; and

(2) in section 601(1) of the bill, to insert ", and section 105(e) and (f) of the Legislative Branch Appropriation Act, 1968, as amended by section 305 of this Act" after "section 321 of this Act" rather than after "title IV, of this Act" as directed by Senate amendment numbered 52.

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

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask the distinguished gentleman, the chairman of the Committee on Rules of the House, if these are purely technical and conforming amendments?

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

Mr. HALL. I am glad to yield to the gentleman from Mississippi.

Mr. COLMER. That is exactly what the concurrent resolution purports to do. There were certain technical mistakes made in the other body, numbering and paragraphing and so forth. This concurrent resolution is merely for the purpose of correcting the technical mistakes.

The concurrent resolution corrects clerical errors.

First, as passed by the Senate, paragraph 6(c) of paragraph 1 of Senate rule XXV, as amended by the bill, contains references to subparagraph (a) but should refer to subparagraph (b). The first change made by the concurrent resolution corrects this error. See page 63, line 24, and page 64, line 2, of the print of the bill with the Senate amendments numbered, dated October 9, 1970.

The Senate, by Senate amendments numbered 52 and 53, intended that the amendments made by section 305 of the bill—relating to compensation of staffs of Senate standing committees—take effect January 1, 1971. The second change made by the concurrent resolution corrects a clerical error so as to carry out this intent.

Mr. HALL. Mr. Speaker, I thank the gentleman. I understand there would be no substantive change in implication or direction of the reorganization of Congress bill by making these technical corrections; is that correct?

Mr. COLMER. There is none.

Mr. HALL. I thank the gentleman.

Mr. Speaker, I withdraw by reservation.

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

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

THE BEACHES OF PRESQUE ISLE

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

Mr. VIGORITO. Mr. Speaker, most recently, Rear Adm. Denys W. Knoll, U.S. Navy, retired, of Erie, Pa., wrote a very fine article entitled, "Nature Has Been Kind to the Beaches of Presque Isle."

Presque Isle, at Erie, is one of the Great Lakes' finest recreational areas. At a time when there is much discussion about the pollution of Lake Erie, it is gratifying to us in Pennsylvania to know that our beautiful Presque Isle is still ideally suited for recreational bathing and other water sports. I believe Admiral Knoll has explained why this is so in his excellent article. I include in the RECORD excerpts from his article, knowing it will be of interest to my colleagues.

NATURE HAS BEEN KIND TO THE BEACHES OF PRESQUE ISLE

The Great Lake region has made a major contribution to the greatness of the United States, and possesses great potential for the future industrial and economic growth of the nation. About 1000 A.D. it was probably explored by the Vikings and called "Wineland the Good" subsequent to their discoveries in Greenland and Iceland. In 1959 it finally became part of the world ocean trade routes, with the opening of the St. Lawrence Seaway; a water highway to 95,000 square miles of fresh water surrounded by the world's greatest industrial and agricultural domain.

This water highway poses challenges to a Viking oar-propelled "long" boat or a modern merchant ship; a passage through the Saint Lawrence river and the Great Lakes from Montreal to the shores of Lake Superior is a surface distance of 1340 miles and involves a gradual vertical lift of 583 feet above sea level. . . .

The Niagara escarpment poses the major hazard and requires a lift of 326 feet; the Welland Canal consisting of eight locks completed in 1932 performs this lift in a distance of 27 miles. . . .

Leaving the Welland Canal at Port Colborne, Ontario, a ship proceeds across Lake Erie, up the Detroit River, through Lake St. Clair, into Lake Huron, northbound via the St. Mary's River to the Sault Ste. Marie (the Soo) where a final lock lifts the ship 21 feet to the Lake Superior Level.

The discovery of iron ore in 1844 at Marquette, Michigan, signalled the opening of the Upper Lakes. . . . The Lake Superior iron ore ranges in Minnesota and Michigan today have limitless supplies of raw material for the production of iron ore pellets from taconite and jasper for the steel mills in the Great Lakes area. . . .

More than 210,000,000 short tons of iron ore, coal, limestone, and grain are annually transported as bulk cargo on the Lakes. . . .

Pennsylvania as a state is unique with a large salt-water port at Philadelphia; an inland waterway port at Pittsburgh with direct access to the Gulf of Mexico via the Ohio and Mississippi Rivers, and a lake port at Erie. . . .

Lake Superior, the deepest lake, has depths exceeding 1100 feet; Lake Michigan 720 feet; Lake Huron 600 feet, and Lake Ontario 700 feet. The bottom surface of each lake, except Lake Erie, is well below sea level (mean surface of the oceans). . . . Lake Erie is very shallow and of less volume and thus more susceptible to pollution. Lake Superior, a deep large lake with little pollution, has a mean surface temperature of 40°F in summer, while Lake Erie has an average surface temperature of 72°F during the summer months. . . .

The City of Erie is situated on the deeper basin of Lake Erie, and the shoal extending from the Canadian shore west of Long Point deflects the flow of the water from the shallow west basin to the deeper east basin. . . . The shallow west basin of Lake Erie accounts for the volume of fish harvests of Lake Erie being equal to the rest of the Great Lakes combined. The western part of the lake is a natural nutrient trap, a relatively shallow shelf that over the years has received a large amount of natural organic material transported by rivers from the surrounding terrain.

The rivers are the natural transport systems for sediment and organic matter washed downhill by the rains that fall upon the land. Nature is slowly filling up the shallow western end of Lake Erie, ultimately it can become a delta and a shallow marsh. . . . In order that fish harvests may continue, the present programs to eliminate pollution from rivers and lakes must be actively pursued. . . .

The beaches at Presque Isle State Park are continually checked during the summer months to insure that the waters are safe for bathing and recreation. There has been some skepticism; and doubts have been expressed that the beaches near Erie are actually safe for bathing, when the beaches near Cleveland and in the western end of the lake are no longer safe due to pollution.

The City of Erie, Cleveland, Toledo and other cities are, of course, on the shore of the same lake; however, Erie is on the shores of the deeper eastern basin and Cleveland and Toledo are on the shores of the shallower, more polluted western basin. In addition to being favorably situated on the shore of the eastern Erie basin, the currents that move from the western basin to the eastern basin are also advantageous to the shores of Presque Isle State Park. . . .

Nature has been kind to Erie—The Gem City of the Lakes. It has provided us with the finest natural harbor on the Lakes. The Presque Isle State Park has some of the finest beaches on the lakes with clean water and ideal temperatures in summer for any type of water recreation. As the present programs to reduce man-made pollution are successfully pursued, the conditions at Erie will continue and improve, and Lake Erie will continue to provide a fish harvest superior to that of all the lakes combined.

Erie has been, is, and will continue to be an ideal place to seek summer recreation, and at the same time, as a lake port it is a significant part of the nation's economy on our "Fourth Sea Coast".

INDEMNIFICATION OF FOOD PROCESSORS

The SPEAKER. Under a previous order of the House the gentleman from Illinois (Mr. MICHEL) is recognized for 10 minutes.

Mr. MICHEL. Mr. Speaker, pending before the House Judiciary Committee is a bill, H.R. 18485, by Congressman SISK with bipartisan support of 20 cosponsors to indemnify food processors and their suppliers for losses—not profits—sustained as the result of the action of the Federal Food and Drug Administration last October 18 in banning the sale of products containing cyclamates. Now that these losses can be established and verified, I believe the Judiciary Committee should give this legislation immediate consideration.

Cyclamates were banned by FDA solely because of the Delaney clause in the law which provides that a food additive may not be used if it has been shown to cause cancer in man or animal. There is no evidence that the use of cyclamates in the past 20 years has caused cancer in man. Only massive doses in test rats have produced cancer. In fact, the Food and Drug Administration had given the industry assurance of the safety of cyclamates by authorizing their use in food standards and as recently as April 1, 1969, a cyclamate food additive regulation was proposed by FDA and published in the Federal Register.

The canning industry had just completed the annual seasonal pack of fruits and on October 18 a year ago had an inventory of about 15 million cases valued at over $67 million, produced by 53 companies in 18 States. Although the industry was allowed to continue to sell its products until September 1 of this year, the cyclamate publicity resulted in very substantial curtailment of consumer purchases. A survey of the industry by the National Canners Association indicates their total losses to be about $34,238,433. This includes the estimated cost of destroying the inventory of about 6,000,000 cases of perfectly good, nutritious canned fruits on hand as of September 1. This loss figure is a substantial blow to many small companies as well as to a number of major producers of canned foods. It can very fairly be labeled as a financial disaster for some companies.

In addition to the canners, I am advised that the losses of local bottlers in all States totaling 1,200 to 1,500 companies are about $35 million. From other reliable industry sources it is estimated that the losses of other manufacturers of dietetic and low-calorie products are under $47 million. Thus the total losses to food companies as a result of the cyclamate ban are less than $120 million.

Under the Sisk bill these losses would be compensated in full by the Federal Government. However, the actual cost to the Government would be about $80 million since the amount of recovery—$120,000,000—would be subject to standard rates of tax.

There has been some opposition expressed that to grant indemnification for cyclamate losses would create a precedent and establish future liabilities on the Federal Treasury. There are two answers to this: First, equity dictates that where the Federal Government without warning determines it necessary to protect the general public by taking an action such as that taken on October 18, 1969, the burden should be assumed by the general public and not solely by the financially affected individual companies and farmers; and, second, precedent for indemnification has been established by the Federal Government through the indemnification of cranberry growers, poultry producers, by maintaining a continuing milk indemnification program, and in the action of Congress when we approve the conference report on the farm bill and provide indemnification of bee owners for losses occasioned by insecticides.

INTRODUCING LEGISLATION TO HELP DISABLED VETERANS

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

Mr. MICHEL. Mr. Speaker, tomorrow I am introducing legislation which will assure employment opportunity for the disabled fighting men in Vietnam when they return to civilian life.

It also strengthens our efforts in behalf of the older veterans of Korea and World War II who are finding it increasingly difficult to find employment because of the compounding of age with disability.

I am speaking specifically of second injury legislation. The primary purpose of the second injury law as called for in my bill is employment opportunity for the handicapped. Because a handicapped person should receive workmen's compensation benefits identical to benefits received by other injured workers, my bill provides reimbursement to the employer when a preexisting impairment is a factor in the occurrence of a subsequent injury or in causing substantially greater disability.

Everyone agrees that the employment of handicapped persons is in the public interest. However, the interest and concern of the veteran and his family is much greater as many have found that securing employment is a most difficult problem.

Veterans with impairments will often do more work than will other workers without handicaps doing the same job. Statistics relative to injuries show that employees who are handicapped sustain fewer on-the-job injuries that employees without preexisting handicaps. They know the value of a sound body and consequently are not inclined to carelessly cause more trouble.

A job applicant who is a veteran should be judged by consideration of his ability to perform productive work and not on the basis of his disability. Many employers have in recent years come to accept the fact that there are numerous jobs that can be performed equally well by properly placed handicapped workers as by employees without a handicap.

The bill I am introducing today will break down hindrances and remove obstacles to the employment of partially disabled persons honorably discharged from our Armed Forces following service in war by making an equitable adjustment of the liability under the workmen's compensation law which an employer must assume in hiring disabled veterans.

Every disabled—or handicapped—veteran should have the opportunity to take his rightful place in business and industry. And no insensible barrier to this goal should be tolerated.

It should be pointed out that all but four States have some form of second injury fund legislation; however, 30 States limit the coverage to loss, or loss of use, of a member of the body. Only 16 laws provide for broad coverage of prior disabilities.

The Disabled Veterans Employment Act which I am introducing authorizes payments to the States for amounts expended for veterans by a State's special or subsequent injury fund or equivalent arrangement.

Under the language of my bill if a veteran incurs personal injury arising out of and in the course of his employment and suffers disability that is substantially greater, because of a preexisting physical impairment than that which would have resulted from the personal injury alone, his employer shall pay all compensation provided under the State's workmen's compensation law.

However, the employer shall be reimbursed from the State's special or second injury fund or equivalent arrangement for all compensation paid in excess of 26 weeks of monetary benefits and $1,000 in medical expenses.

Briefly, this is what this legislation will do. It is designed to benefit a handicapped veteran by giving him a better opportunity to secure or retain employment and to benefit the employer by relieving him of increased costs of a subsequent injury if sustained.

Mr. Speaker, I include the entire text of this legislation in the RECORD at this point:

H.R. —

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 "Disabled Veterans Employment Act."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a)(1) The Congress finds that veterans of the active military, naval, or air service when disabled as a result of such service in war encounter serious difficulty in securing employment;

(2) Every veteran of the active military, naval, or air service, is entitled to a reasonable opportunity to maintain his independence and self-respect through self-support even after he has been disabled as a result of such active service.

(b) It is hereby declared to be the purpose of this Act to break down hindrances and remove obstacles to the employment of partially disabled persons honorably discharged from our Armed Forces following service in war by making an equitable adjustment of the liability under the workmen's compensation laws which an employer must assume in hiring disabled veterans.

DEFINITIONS

SEC. 3.(a) For the purpose of this Act, the term—

(1) "Physical Impairment" means any service-connected physical or mental condition caused by injury or disease to a veteran, which is of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the veteran shall become unemployed.

If a veteran has any of the following conditions, there shall be a rebuttable presumption that the condition is a permanent physical impairment.

(1) Epilepsy
(2) Diabetes
(3) Cardiac disease
(4) Arthritis
(5) Amputated foot, leg, arm or hand
(6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than 75 per cent bilaterally
(7) Residual disability from poliomyelitis
(8) Cerebral palsy.
(9) Multiple sclerosis
(10) Parkinson's disease
(11) Cerebral vascular accident
(12) Tuberculosis
(13) Silicosis
(14) Psychoneurotic disability following treatment in a recognized medical or mental institution
(15) Haemophilia
(16) Chronic osteomyelitis
(17) Ankylosis of joints
(18) Hyperinsulism
(19) Muscular dystrophies
(20) Arteriosclerosis
(21) Thrombophlebitis
(22) Varicose veins
(23) Heavy metal poisoning
(24) Ionizing radiation injury
(25) Compressed air sequelae
(26) Ruptured intervertebral disk

(2) "Secretary" means the Secretary of Labor.

(3) "Personal injury" means injury arising out of and in the course of employment and includes personal injury caused by occupational disease.

(4) "Employer" includes insurer.

(5) "Veteran" means a person who served in the active military, naval, or air service, during any of the following periods and who was discharged or released therefrom under conditions other than dishonorable.

(A) "World War II"—the period beginning on December 7, 1941, and ending on December 31, 1946;

(B) "Korean conflict"—the period beginning on June 27, 1950, and ending on January 31, 1955;

(C) "Vietnam era"—the period beginning on August 5, 1964, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress.

(6) The terms "United States" (when used in a geographic sense) and "State" includes the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

PAYMENTS TO THE STATES

SEC. 4. (a) The Secretary is authorized to make payments to the States for amounts expended for veterans by a State's special or subsequent injury fund or equivalent arrangement as set forth in subsection (b) of this section in accordance with a State plan approved under this section to any State with an approved special or subsequent injury fund or equivalent arrangement to encourage the employment or reemployment of disabled veterans.

(b) The Secretary shall approve any plan or any modification thereof, submitted under this section by a State, through its official workmen's compensation agency, which includes provisions substantially equivalent to the following in its workmen's compensation law:

(1) If a veteran incurs personal injury arising out of and in the course of his employment and suffers disability that is substantially greater, because of a pre-existing physical impairment, as defined in Sec. 3(a) of this Act, than that which would have resulted from the personal injury alone, his employer shall pay all compensation provided under the State's workmen's compensation law, but the employer shall be reimbursed from the State's special or second injury fund or equivalent arrangement for all compensation paid in excess of 26 weeks of monetary benefits and $1,000 in medical expenses;

(2) If the employee's personal injury shall result in disability or death, and if the injury, death, or disability would not have occurred except for the pre-existing physical impairment, the employer shall pay all compensation provided under the State's workmen's compensation law but shall be reimbursed from the State's special or second injury fund or equivalent arrangement for all such compensation.

(3) If an employee of the employer is injured or killed by reason of any physical activity of a fellow employee who is a veteran and it is determined that such activity is traceable solely and directly to a physical or mental condition resulting from the service of any such fellow employee in the Armed Forces of the United States, the entire amount of compensation that may be found payable to the injured employee shall be paid from the State's special or second injury fund or equivalent arrangement.

(c) To be approved, the plan must—

(1) designate the State workmen's compensation agency as the sole agency responsible for filing claims against the Fund established in Sec. 5 of this Act, for administering the disbursement of funds under this Act, for administering the disbursement of funds under this Act throughout the State, and contain satisfactory evidence that such agency will have the authority to carry out the purposes of this Act;

(2) provide such fiscal control and fund accounting procedures as may be appropriate to assure proper disbursement and accounting of funds made to the States under this Act;

(3) provide that the designated agency will make such reports to the Secretary in such form and containing such information as the Secretary may from time to time require;

(4) meet additional conditions which the Secretary may prescribe in furtherance of, and consistent with, the purposes of this Act.

(d) The Secretary shall not finally disapprove any State plan or modification thereof without first affording the State agency reasonable notice and opportunity for a public hearing.

(e) Any State aggrieved by a decision of the Secretary under this section may file within thirty days from the date of such decision with the United States Court of Appeals for the District of Columbia a petition praying that such action be modified or set aside in whole or in part. The court shall hear such appeal on the record made before the Secretary. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or remand the proceedings to the Secretary for such further action as it directs.

(f) The Secretary shall cooperate with such State in carrying out the plan or modification thereof.

FUND FOR ENCOURAGING THE EMPLOYMENT OF DISABLED VETERANS

SEC. 5. (a) Establishment.

To carry out the programs authorized under this Act, the Secretary is authorized to establish a Fund for Encouraging the Employment of Disabled Veterans (hereinafter called the "Fund") which shall be available, without fiscal year limitations—

(1) to make such payments as may, from time to time, be required under this Act;

(2) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this Act.

(b) Credits to Fund.

The Fund shall be credited with—

(1) interest which may be earned on investments of the Fund;

(2) such amounts as may be advanced to the Fund from appropriations in order to maintain the Fund in an operative condition adequate to meet its liabilities;

(3) receipts from any other source which may, from time to time, be credited to the Fund;

(c) Investment in obligations issued or guaranteed by United States.

If, after any amounts which may have been advanced to the Fund from appropriations have been credited to the appropriation from which advanced (including interest thereon), the Secretary determines that the moneys of the Fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) Annual budget.

An annual business-type budget for the Fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law.

RECORDS, ANNUAL STATEMENT, AND AUDITS

SEC. 6. (a) Any State agency acquiring funds under this Act shall furnish the Secretary with such summaries and analyses of information in its records as may be necessary to carry out the purposes of this Act, in such form as the Secretary, shall, by rules and regulations, prescribe.

(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 investigation, audit, and examination to any books, documents; papers, and records that are pertinent to the costs of any program undertaken for, or services rendered to, the Secretary. Such audits shall be conducted to the maximum extent feasible in cooperation with the State authorities and through the use of their examining facilities.

TAXATION

SEC. 7. (a) The Fund including its reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, or any subdivision thereof.

GENERAL PROVISIONS

SEC. 8. (a) The Secretary is authorized to prescribe regulations for the administration of this Act including the general method by which claims shall be submitted and paid.

(b) All claims for payment under this Act shall be submitted by the State agency in accordance with such terms and conditions as may be established by the Secretary.

(c)(1) Upon disallowance of any claim under this Act, or upon refusal of the State agency to accept the amount allowed upon any such claim, such official may institute an action against the Secretary on such claim in the United States district court for the district in which a major portion (in terms of value) of the claim arose.

(2) Any such action must be begun within one year after the date upon which the State agency received written notice of disallowance of the claim, and exclusive jurisdiction is hereby conferred upon United States district courts to hear and determine such actions without regard to the amount in controversy.

COORDINATION WITH OTHER PROGRAMS

SEC. 9. In carrying out this Act, the Secretary shall consult with other departments and agencies of the Federal Government, and with State, and local agencies having respon-

sibilities for veterans in order to assure that the programs of such agencies and the program authorized under this Act are mutually consistent.

ANNUAL REPORT TO THE PRESIDENT

SEC. 10. The Secretary shall include a report of operations under this chapter in the annual report to the President for submission to the Congress.

SPECIAL STUDIES

SEC. 11. Studies and investigations.

The Secretary is authorized to carry out studies and investigations utilizing to the maximum extent practicable the existing facilities and services of other Federal departments or agencies, and State and local governmental agencies, and any other organizations, with respect to the adequacy of State special or second injury funds or equivalent arrangement and may enter into any contracts, agreements, or other appropriate arrangements to carry out such authority.

On the basis of such studies and investigations, and such other information as he deems necessary, the Secretary shall from time to time develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate State measures which, to the maximum extent feasible, will encourage the employment of disabled veterans.

SEC. 12. There is authorized to be appropriated $—— for fiscal year — $—— annually in each succeeding fiscal year to the Fund to carry out the provisions of this Act which shall remain available until expended.

NUCLEAR POWER: POLLUTION-FREE SOURCE OF ENERGY

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. COUGHLIN) is recognized for 15 minutes.

Mr. COUGHLIN. Mr. Speaker, with new nuclear generating plants proliferating throughout the country, many areas are being confronted with vexing questions of citizen safety and environmental protection.

It is vital to assure, exactly, that proposed nuclear generating plants are safe and substantially pollution free. At the same time, it is important that conscientious citizens and officials do everything possible to prevent the subject of nuclear energy for peaceful purposes from being turned into a political football.

If we are serious in our concern for the environment—and I am—we must recognize that electricity is a clean source of energy, and that nuclear power is potentially a relatively pollution-free source of electricity.

Fossil fuels are a leading polluter and fossil fuel powerplants that daily belch tons of smoke into the atmosphere have been cited as the major source of industrial air pollution in southeastern Pennsylvania. Nuclear powerplants are a practical alternative provided they are safe and do not affect the environment adversely in terms of radiation, water usage, radiation water pollution, thermal water pollution, and effects on atmosphere conditions.

The proposal of the Philadelphia Electric Co. to build a nuclear generating plant in Limerick Township in my congressional district has raised many of these questions. From the time of the announcement on March 12, 1970, that PE wanted to construct a nuclear plant, I sought the information and knowledge necessary to evaluate such a proposal.

I initiated inquiries both with the Atomic Energy Commission and PE in which I sought answers to specific questions relating to the safety and environmental aspects of the proposed plant. While doing so with an open mind, I wanted factual answers to hard questions.

Much information with respect to the proposed Limerick nuclear generating plant was still unavailable, and as early as July 16, 1970, I presented testimony to the Delaware River Basin Commission urging it to refuse consideration of a permit to divert water for the proposed plant from the Delaware River until the environmental report required by the Atomic Energy Commission was available.

Many people may be unaware of recent developments of substantial importance in this field.

First, last week the House of Representatives approved establishment of the Environmental Protection Agency into which will be consolidated the environmental control functions of the various departments and agencies, such as the Federal Water Quality Administration, the National Air Pollution Control Administration, the Bureau of Radiological Health, and others. Consolidation of these functions into a single agency should provide stronger control, and the proposed Limerick plant would have to meet the requirements of this agency.

Second, the environmental radiation protection and radiation standard setting functions of the Atomic Energy Commission are transferred to this new Environmental Protection Agency. For some time, I have objected to the fact that the Atomic Energy Commission is both policeman and promoter of nuclear energy and have advocated separation of its regulatory function from its other functions. Splitting off the setting of radiation standards into the Environmental Protection Agency is a long step in that direction.

Third, last week the House also amended the Atomic Energy Act to provide for a thorough and comprehensive review of radiation protection standards by the National Council on Radiation Protection and the National Academy of Sciences. This review would enlist prominent scientists on a continuing basis, and its recommendations would be published publicly.

In addition, although not a recent development, the Water Quality Improvement Act of 1970 requires certification from the State, Interstate Pollution Control Agency, or Secretary of Interior, as appropriate, that the plant will not violate applicable water quality standards.

Despite these encouraging developments, I believe that granting a permit for the construction of the Limerick plant should be deferred for a number of reasons:

First, the Environmental Report required by the Atomic Energy Commission has not yet been completed. It must be studied in detail and approved by the Environmental Protection Agency before any decision is reached.

Second, the cooling tower system is still under design. It remains to be shown that these towers or the process they employ will not pollute the area either physically or visually.

Third, the mandated review of the Federal safety standards under the separate supervision of the Environmental Protection Agency should be available before final permits are issued.

I would hope that the proposed plant at Limerick will not be turned into a political football. Our future needs for clean sources of energy, the safety of people and the survival of our environment are too important to permit influence by emotional, scare political tactics.

We want neither brownouts nor a fossil fuel plant at Limerick. Blind opposition to nuclear power or extended moratoriums on progress in the field may deny us the possibility of a more pollution-free source of electrical energy.

Our job is to assure, exactly, that the proposed plant is both safe and substantially pollution free.

WILL THE PRESIDENT DISCOVER AMERICA?

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, today we commemorate the finding of America by Christopher Columbus. What that great navigator found was not really North America, but bits and pieces of the Western Hemisphere. Citizens of the United States are sometimes inclined to forget that this hemisphere consists of North America and South America. It would be fitting therefore if we used this day to commemorate several facts, not the least of which is that Columbus was a sailor under the Spanish flag. Accordingly, we should discover America in the larger sense, just as Columbus did—not just this country but the whole hemisphere. And as I review the scene today I can only wonder when the President will discover America.

This year there have been great, portentous events in South America. In Chile the first free election of a Marxist President took place. Before that, no Marxist had ever been freely elected in any country. Just a few days ago, Bolivia started through another revolutionary change of government, and thus far it seems that this poor Andean land has taken a decided turn to the left. And the same thing has happened in Peru, so that all of the Andean countries are now coming into vast political changes, none of which seem to hold much promise for the future good of the interests of the United States, or for the future of the poor people who make up the vast bulk of the citizenry of those countries.

Aside from all these startling developments, the Soviet Union is breaking the 1962 Cuban missile agreement by constructing a submarine base in Cuba.

Yet, we hear only silence from the President, who in recent days has hardly had time to visit the Capital of his own country. I think that it is time he discovered America.

The administration cannot decide whether that Cuban base exists or not. At first, the White House, through an

anonymous spokesman, said that it did, and the United States was concerned about it, even going so far as to say darkly that the United States would take the right action at the right time to deal with that installation. Then, a few days later, other anonymous spokesmen said that they were not sure that the White House had reliable information and maybe the whole thing would best be forgotten. And now comes the Secretary of Defense, who yesterday said yes, there is a Soviet submarine base in Cuba, and that it would pose us a considerable threat, but that he did not know whether they had actually used the base or not. Well, they would hardly go to the trouble of building the base and not using it.

Let us have the cards out on the table. Let the administration start discovering America, and being frank for a change—among other things, about that submarine base, what kind of threat it represents, and what we intend doing about it.

It surely puzzles me that this administration has been able to discover a threat to the security of this Nation by inventing a creature called the "radiclib," which creature is in fact anybody who disagrees with the administration, but who is otherwise a completely faithful and loyal American. Yet, this same administration cannot discern any threat in a Soviet submarine base so close to our shores that the wake from passing submarines might well swamp small boats at Key Biscayne itself. Possibly the old "red" hunter of the forties and fifties is unable to discern the difference between threats conjured for political convenience and those which are real and very deadly indeed. What seems more likely is that recognizing real threats is not deemed to be in the political interest of the administration.

The primary interest of any nation is its own survival. When that interest is threatened a nation must recognize the danger and face it. No nation can afford to be, in the President's phrase, a "helpless giant." Yet in the case of the Soviet base in Cuba, that seems to be precisely what we are—either a helpless giant or a terribly slow-witted one.

It simply boggles the imagination to see a Secretary of Defense say that a submarine base has been built in Cuba, that the Soviets might substantially increase the effectiveness of their nuclear missile firing submarine fleet with such a base, and that this would be a serious matter, indeed—if the base were used. Does he think that it would be not be used?

I believe that we have to be concerned by the administration's double reverse on this matter. For those of you who do not follow the great sport of football, a double reverse occurs when the quarterback seems to go one way, and hands the ball to a man running the opposite way, which is a reverse. A double reverse takes place when the second man hands off to a man going in the quarterback's original direction. Now in the case of the Soviet submarine base, we have seen the White House take off on an aggressive challenge, only to reverse its field, and then only, through Secretary Laird, to reverse its field yet again, except that he fumbled. The quarterback has not yet any place in sight during all this action—he has been in Europe, at sea, in Florida and now is on the campaign trail.

Would the President not have been in the forefront of those condemning the late President Kennedy had he permitted the Soviets to establish a submarine base in Cuba? Indeed he would have. Yet, as President, he sees no need to recognize the danger, nor even to ask his spokesmen to set the facts straight, nor even to express much concern about it.

If there is a threat to America today, I do not think it comes from those that the President has his chief hatchetman to denounce as radic-liberals but from the very real opponents of this country who have established themselves with a strategic base in Cuba, with a stunning election victory in Chile, and with strong gains elsewhere in the southern half of this hemisphere. If the President would discover the real threat to the Western Hemisphere, and to this country today, let him discover America this Columbus Day.

THE 91ST CONGRESS—A REPORT TO THE PEOPLE

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 30 minutes.

Mr. THOMPSON of New Jersey. Mr. Speaker, each session of the Congress tends to take on a character and theme of its own. While the record of the 91st Congress is still being written, I venture to think it will become known as the "New Priorities" Congress—the Congress which expressed in legislative terms the Nation's determination to put its house in order. Much remains to be done, but there are major accomplishments for which we may justly take credit.

CURBING THE PENTAGON

This Congress has responded to the national mood by bringing the Defense budget under rational control. The House of Representatives trimmed $2 billion from administration requests. If upheld by the Senate, as will almost certainly be the case, the 1971 Defense budget will approximate $66.7 billion—down $6 billion from fiscal 1970. More to the point, more than half the cuts were in the arms procurement section of the budget. In short, Congress has served notice on the military that it is fed up with costly overruns on questionable weapons systems and will insist that the Pentagon heed its own newly announced fly-before-you-buy policy.

FOREIGN AFFAIRS

The 91st Congress saw a significant effort in the Senate to reassert congressional oversight responsibility on foreign policy. The Committee on Foreign Affairs brought to public view the nature and extent of our commitments to the nations of Southeast Asia and for the first time revealed some of the seamier aspects of those commitments; for example, the fact that we have for some time been paying huge bonuses to entice our "allies" to fight in South Vietnam. The central issue at dispute in the Senate was the withdrawal rate, and whether support as well as combat troops would be brought home. The President at first steadfastly refused to be pinned down to a withdrawal timetable as sought in the Hatfield-McGovern resolution, which I sponsored in the House. But in his speech of October 7, Mr. Nixon said:

> We are ready to negotiate an agreed timetable for complete withdrawals as part of an overall settlement.

Meanwhile, Congress expressed its deep concern for the fate of Israel by authorizing the President to transfer to Israel by "sale, credit, or guaranty" aircraft and related equipment to counteract the Russian presence in Egypt.

THE DOMESTIC SCENE

Mr. Speaker, I think it fair to say that the 91st Congress has begun to heed the growing desire of the American people for improvement in the qualitative as well as the quantitative aspects of our society. Most of us realize that no society can exist, much less improve itself, if it cannot guarantee the physical well-being of its citizens nor safeguard their property. Thus, action was taken on a number of major law enforcement bills. The most significant were: the Comprehensive Drug Abuse Prevention and Control Act, which sets up new procedures for classifying dangerous drugs, changes penalties for "users" as opposed to "pushers," provides new enforcement powers to attack major narcotics rings, and authorizes new rehabilitation programs for drug addicts; the Omnibus Crime Control and Safe Streets Act, which builds upon and improves the initial Crime Control Act of 1968 and provides substantially more money for Federal grants to State and local law enforcement agencies; the Organized Crime Control Bill, which gives Federal and State authorities new powers to investigate "syndicated" crime and to prevent hoodlums from buying into legitimate businesses.

THE ENVIRONMENT

While law enforcement measures occupied a good deal of time, Congress gave high priority to environmental legislation. The House passed a new Clean Air Act which more than doubled Federal funds to fight air pollution. The Senate added tough new language giving the auto industry a specific deadline to develop a pollution-free automobile engine. A new Water Quality Improvement Act materially increased Federal grants for sewage treatment construction and pilot projects to investigate new methods to rid our lakes and streams of pollutants. A new Solid Waste Disposal Act will expand research for new methods of dealing with garbage and trash. Administratively, Congress authorized the President to revamp the executive branch to give more emphasis to environmental problems. And Congress enacted the new Environmental Education Act which I cosponsored. The act will make

Federal funds available to local schools to help set up environmental education courses to alert a new generation of Americans to the values of nature and the necessity of preserving it.

MEETING SOCIAL NEEDS

Americans do want a better physical environment in which to live and raise their children. But far too many of our people are still waging a difficult battle to assure to themselves the basic necessities of life. This is particularly so in the case of our senior citizens who are most vulnerable to the inroads of inflation. Legislation increasing social security benefits and improving coverage was approved by the House and should soon receive attention in the Senate. The specter of illness haunts everyone—young and old. Congress passed over the President's veto the Hospital Construction Act which continues the existing program of Federal grants for new hospital construction and establishes more liberal provisions for Federal loans to build urgently needed hospital facilities.

Space does not permit more than a brief mention of other major legislation to be enacted by the 91st Congress: The new Urban Mass Transportation Act, authored by Senator HARRISON A. WILLIAMS, of New Jersey; the Health Training Improvement Act; the Food Stamp Authorization Act; the Child Nutrition Act; the Federal Construction Safety Act; the National Traffic and Motor Vehicle Safety Act; the Federal Railroad Safety Act; and, of course, the Tax Reform Act of 1969.

This listing is by no means all inclusive, nor could it be. But I think it indicates that the 91st Congress expressed a deep regard for the social needs of our citizenry and a determination to do something about them. Much more needs doing. As a result, the 92d Congress will have a full agenda when it convenes next January. But thanks to the Legislative Reorganization Act passed by the 91st Congress, I think the new Congress will be even more responsive to national needs.

A TRIBUTE TO COLUMBUS

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 15 minutes.

Mr. RODINO. Mr. Speaker, once again this year we pause to honor one of the great journeymen of time.

We celebrate Columbus' daring, his courage and discipline and his visionary spirit—but especially we commemorate his feat for the monumental vistas which he opened for future generations to explore.

Whether Columbus was actually the first or second, or even the third voyager to reach our shores is purely academic. It detracts nothing from the intrepid admiral's daring and determination. It subtracts nothing from the everlasting significance of his unique and monumental achievement.

In saluting Columbus we honor not only the man but the legacy which he bequeathed as the Father of Immigration. We honor all immigrants, for the faith and courage of those who followed Columbus remind us of his undaunted will. In this spirit they eventually created our democracy, dedicated to the principles of freedom and opportunity. But we do more than show our gratitude for their countries contributions. We simultaneously strike a powerful blow against discrimination and the intolerable prejudice of those who insist upon measuring a man by where he comes from or where his parents or their parents came from, without regard for individual ability, integrity, loyalty, or any other distinguishing or commendable characteristics.

The magnitude of Columbus' achievement is incalculable, for virtue of his discovery, he was responsible for the birth of a civilization. This major milestone in the history of mankind deserves to be remembered anew each year. In and of itself it is sufficient reason to justify a national celebration in a country which owes its existence to that magical moment of discovery.

I am personally gratified that after many long years and persistent efforts the Congress saw fit to establish Columbus Day as a national holiday. And, I am pleased that next year will mark the first national celebration of this historic event—for Columbus Day is an appropriate occasion for the nation to pause to pay homage to the cause and challenge of discovery, invention, and exploration. We celebrate Columbus Day, too, as a symbol of man's search for, and conquest of frontiers—both those which are as yet unknown as well as the new frontiers of environmental pollution and urban decay which are really the old frontiers redefined—and perhaps the greatest challenge to the frontier spirit.

It will be a time to review our progress in the search for technological advances to improve the way of life for all citizens by making it better, safer, and more satisfying, to evaluate our gains and appraise our failings and to renew our faith.

THE CHARLOTTE DESEGREGATION CASE

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. CRAMER), is recognized for 30 minutes.

Mr. CRAMER. Mr. Speaker and my colleagues, I am just a few moments late because I have just left the U.S. Supreme Court, along with some of my colleagues from the House, some of the 83 Members of the House who joined me in my brief in the Charlotte-Mecklenburg desegregation case, being heard today by the Supreme Court.

It might be as shocking to my colleagues as it was to me to learn that those 84 Members of the Congress, myself included, were denied the right to be heard before the U.S. Supreme Court. Supported by my colleagues, I had petitioned for the opportunity to be heard as the author of the antibusing amendment to the 1964 Civil Rights Act. Section 401(b) very clearly and very distinctly states:

> Desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

The Senate, in section 407, further stated that no court or any other branch of the Government shall have authority to order racial balance.

Now, this is a very clear mandate of the Congress of the United States. You and I know that that act of 1964 would never have become law, if this language had not been written into the proposed legislation for desegregation in America.

There is no argument about whether desegregation should be required. That is the law, and no one is arguing that. However, the question is: What is desegregation? As the Member of the Congress who wrote the definition into the law, which was supported unanimously on the floor of the House and unanimously by the Senate, I know that there was not one question raised about it when it was proposed that desegregation shall not mean the busing of students in order to provide racial balance.

I listened to the arguments this morning. The nub of the problem is: Can you have an all-black school anywhere in America and still have a constitutionally desegregated system? I say "yes." The courts have constantly said "yes" in the North, but not in the South. That is not uniformity of justice in America. It is a wrong decision, and I wanted to tell them that it was wrong. I wanted to tell the Justices in the Supreme Court that it was wrong, because I offered that amendment and I come from the South and my own congressional district and home county was involved. They said in my own home county that you could not have an all-black school under the latest determination, although you can have just as many as you want in Chicago, and in Harlem, and in other places in America. This, despite the fact that the Congress of the United States clearly acted and said that busing shall not be required for balancing. But they are playing a numbers game with all of the students in America. A quality education, and a neighborhood school system, and the rights of all the students, black and white, should be considered in providing for an adequate educational system in America so far as the Constitution of the United States and the Congress of the United States are concerned.

I resent the fact, Mr. Speaker—and I will yield to my distinguished colleague in whose district the problem exists, the Charlotte-Mecklenburg area, where this case arose—I resent the fact that the Congress of the United States and the Member who wrote that amendment, in particular, were not given an opportunity to try to help the Supreme Court by indicating what Congress clearly intended; namely, that the rule should be the same nationwide and that you could have an all-black or all-white school where this is no segregation. This is not against the 14th amendment. The courts have no right to inject themselves into that factual situation. Second, the Congress has spoken under section 5 of the

14th amendment, to enact appropriate legislation. I am glad to see that the Department of Justice is taking a position similar to this in many respects. Balancing is not required, and busing for the sake of balancing is not required. But I wish the Court had given me the opportunity to say it. That is what the Congress has said and that is the law of the land, and the Court has got to live up to it. I wish somebody had been there to inform the Court of what we intended. I say that it is a pretty sad day in America when a Member of the Congress of the United States, backed by 83 other Members of the Congress, which is a pretty substantial number of the Members, not just from the South, but from the entire country, is not at least given 5 minutes of the precious time of the Supreme Court of the United States.

I now yield to the gentleman from North Carolina (Mr. JONAS).

Mr. JONAS. Is it not fair to say that some of the lower courts and the court of appeals, for example, in the Fifth Circuit have completely misinterpreted and misconstrued the legislative history involved in the Civil Rights Act legislation? Is that not true?

Mr. CRAMER. The gentleman is absolutely correct.

Mr. JONAS. And was not one of the purposes of the brief which the distinguished gentleman from Florida filed to make the record clear and to establish and show to the Supreme Court what the real legislative history behind that Cramer amendment was, beginning with the hearings in subcommittee, and in the full committee and particularly on the floor in the other body?

Mr. CRAMER. The gentleman is eminently correct. In the Judiciary Committee, we struck from the legislation proposed by the then Kennedy administration in 1963 every reference to racial balance, and we did so unanimously. Then we offered the amendment on the floor to make sure, as the gentleman well remembers. For the courts to come up with a wholly improper determination that my amendment applies to the North but not the South is about the most fictitious and false interpretation of that legislation I have ever seen, and I wanted the opportunity to tell them what we intended.

Mr. JONAS. Mr. Speaker, if the gentleman will yield further, that point was not only made in the committee, in your subcommittee and on the floor, but it was emphasized in the debate and the colloquy in the other body.

Mr. CRAMER. The gentleman is absolutely correct. And, I repeat, I do not think there was a man in the Congress who would not concede that if my amendment, plus the one added in the Senate, had not been made a part of that legislation, the act would not have passed. Does not the gentleman agree with that?

Mr. JONAS. I agree absolutely. I cannot understand how a court could so misconstrue the legislative history of this section. That is why I am so anxious to join in the very fine brief prepared by my able colleague in the well, because I thought for the first time we had some legislative history for this act and this section in a brief and in oral argument which would convince the Supreme Court that the lower courts had misconstrued and misinterpreted the legislative history. There was no intention on the part of the Congress in the Civil Rights Act of 1964 and the amendments thereto to indicate that that provision only applied to de facto cases.

Mr. CRAMER. I will say to the gentleman that I thank him for joining in the brief and for his activity in support of this case which originated in his district. He is very much involved in an effort to get a rule of reason applied with respect to desegregation.

I had hoped that the Supreme Court Justices would read that brief and that they would let us be heard. I trust that they will read that brief because if they do, I think there is a good chance that a decision will be made consistent with the law as written. Balance is not required through busing because the Congress acted under the Constitution and stated that it would not be required.

Mr. JONAS. Mr. Speaker, if the gentleman will yield further, I was glad to hear the Solicitor General in the argument this morning adopt that same view. He made the point that what the Congress enacted under the 14th Amendment, a lower court is bound by.

Mr. CRAMER. That is right, and that is what I wanted to indicate—that what Congress intended, the Court is bound by.

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

Mr. CRAMER. I yield to the gentleman from Mississippi.

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

Mr. Speaker, I would like to be associated with the gentleman's remarks and I commend him for his actions. I also have had the great opportunity to join in the brief that the gentleman in the Well has prepared, and I had the opportunity to go with the gentleman in the Well and with many other of my colleagues to the Supreme Court this morning.

I think it should be pointed out, Mr. Speaker, that the gentleman from Florida (Mr. CRAMER), did ask permission for only 5 minutes to address the Supreme Court to put his arguments forward, and he was denied this time.

I might also say that the Supreme Court stopped right at 12 o'clock to have lunch, and as I understand it they will quit again at 4:30 in the afternoon, not taking enough time to hear such an important argument that the gentleman in the well has prepared to deliver in the Charlotte-Mecklenburg case.

Mr. Speaker, I wish the gentleman from Florida would comment on what the Solicitor General said in his remarks to the Supreme Court this morning, wherein he said that he could find nothing in the Constitution that said where you had to have integrated schools, schools could be segregated in certain cases, all black or all white. He gave as examples Washington, D.C., and Mount Bayou, Miss. Would the gentleman care to comment on that?

Mr. CRAMER. The argument of the Solicitor General—and incidentally, as you know, many of us have been attempting to get a rule of reason in the executive branch, and I think the brief filed by the Solicitor General indicates that maybe there is a breakthrough there, certainly insofar as that brief is concerned—indicated that the Court should first determine what are the standards that shall be required; and, second, what should be the objective?

And he questioned whether the objective should be achieving of balance as the standard, or should it be to disestablish a dual school system? And he took a very clear and positive position that the Constitution, in his opinion, and that means the Justice Department of the United States, does not require racial balance. Desegregation does not mean racial balance.

I trust the Court will be guided favorably by that.

Mr. MONTGOMERY. If the gentleman will yield further, and this will be my last comment and last question, I was a little surprised at some of the judges asking questions about certain terms that we have become quite familiar with in dealing with desegregation cases, I was surprised at hearing the Court asked the Solicitor General and others before the Court what did the witnesses mean by words such as pairing, clustering, and satellite. This is such an important case, I was a little disturbed that the judges were not more more familiar with these words and their usage.

Mr. Speaker, again I thank the gentleman for yielding—he is doing a great service to the people of this country.

Mr. CRAMER. I thank the gentleman for joining in the brief.

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

Mr. CRAMER. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I thank the gentleman from Florida for yielding to me at this time.

Mr. Speaker, I think that the gentleman from Florida (Mr. CRAMER), has performed a service for this body and for the country in taking this special order today to do on the floor of the House that which he was denied the right to do before the bar of the Supreme Court today.

The gentleman from Florida, I am sure, will concur that immediately upon the preparation of the amicus curiae brief which the gentleman from Florida prepared, and upon giving a number of us the opportunity of joining with him in the filing of that brief with the Supreme Court, that along with a large number of our other colleagues the gentleman from Georgia who is now speaking joined with the gentleman from Florida. I would further say that the brief as prepared by the gentleman from Florida certainly expressed the intent of the Congress which is at issue in this Charlotte-Mecklenburg case which is being considered before the Supreme Court today.

In addition, I think that the gentleman from Florida has accurately stated the facts that as popular and appealing as that legislation to which his amendment was added was to the majority of the Members of the House that it would not have passed without his amendment. I must add that even with the amendment of the gentleman from Florida, that piece of legislation had no appeal

to me. Notwithstanding I think the gentleman from Florida is correct when he says that without the language of his amendment the bill would not have passed either this House or the other body.

I was disappointed, as I know the gentleman from Florida was, when he was denied the right to appeal personally and to make an oral argument before the bar of the Supreme Court. I share with him that disappointment which I know he must have felt.

In addition to that, the State of Georgia through the Attorney General of our State filed a brief in this same case. I hope the gentleman from Florida has read it, and I believe that he has. I believe the gentleman from Florida will concur in the line of reasoning in the brief submitted by the Attorney General Arthur K. Bolton of Georgia, and others, as being along identical lines as the brief prepared and submitted by the gentleman from Florida and others.

The State of Georgia has particular reasons to be interested in this case and to be heard. One of the cases which has been consolidated with the Charlotte-Mecklenburg County case and which arose in the State of Georgia and certainly has a valid interest. In this case, the State of Georgia was entitled to be heard just as I think the gentleman from Florida was entitled to be heard.

However, I do express the hope and confidence that the Chief Justice of the United States and the Associate Justices of the Supreme Court, will carefully read the brief prepared and submitted both by the gentleman from Florida and by Attorney General Bolton of the State of Georgia.

Mr. Speaker, I congratulate the gentleman from Florida on his brief and for taking this special order today.

Mr. CRAMER. Mr. Speaker, I thank the gentleman from Georgia.

Mr. Speaker, to me this is a unique situation. In effect, the Court is actually taking over the functions of the local school boards and drawing school district lines and drawing their own plans—and dictating, if you please, their own plans for desegregation—and, supposedly, pursuant to a constitutional mandate.

This is a situation charged with public interest and concern. To me, this is unique that the court should assume that right—the Congress having spoken in the field. Indeed this is a unique case.

In a case like this, where the Congress has acted to provide a definition of desegregation, and the Court is seeking a definition, for the life of me I cannot understand why the Supreme Court holds to a hard and fast rule and will not let the Congress be heard.

Mr. FLYNT. Mr. Speaker, I concur with what the gentleman said about this being a unique case. It is unique for the reasons the gentleman from Florida has stated.

If I may add another reason, I think the Charlotte-Mecklenburg County case is unique because in so many instances where the Supreme Court of the United States is called upon to rule upon the intent of the Congress in enacting a particular piece of legislation and in many instances the personnel composition of Congress has so changed between the time that the statute was enacted and the time the Supreme Court may be called upon to rule upon the intent of Congress in passing a particular statute, that many or all of the Members who were Members of the Congress at the time of the enactment of the legislation are gone either through retirement or death. But in this instance many Members of the Congress who were serving in 1964 are still serving in both Houses of Congress. This is equally true, as the gentleman is well aware, as to many of us who gladly joined with him in signing this brief—are still here. So the Court had unique opportunity to hear from the gentleman from Florida speaking for himself and the others as to what the intent of the Congress was and is.

Mr. Speaker, I thank the gentleman from Florida for yielding.

Mr. CRAMER. I thank the gentleman from Georgia.

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

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

Mr. MICHEL. The gentleman made the point that he, together with several of our colleagues, were denied 5 or 10 minutes to present an oral argument before the Supreme Court. Aside from being a Member of the Congress, is not the gentleman from Florida a lawyer in good standing, admitted to practice before the Supreme Court as a private citizen?

Mr. CRAMER. Yes; that is correct.

Mr. MICHEL. Did the Court give any reason at all why the gentleman was denied the opportunity for that oral argument?

Mr. CRAMER. Yes; they said, "Motion denied," quote, unquote.

Mr. MICHEL. And that was it?

Mr. CRAMER. That was it.

Mr. MICHEL. I merely wish to commend the gentleman for focusing attention——

Mr. CRAMER. The Supreme Court does not have to explain what it does. All it said was "Motion denied."

Mr. MICHEL. I do wish to commend the gentleman for the action he has taken in focusing attention on the history and intent of this most significant piece of legislation because, as the gentleman has suggested, it does have far-reaching ramifications throughout the country, including my own State of Illinois.

Mr. CRAMER. I thank the gentleman. Really what I am hoping the Court will do is to consider all students. Why deny white students basic rights? Why should white students be bused 40, 50, or 60 miles in order to accommodate a numerical balance, merely because some college professor thinks that is the way it should be done? That is what happened in North Carolina. The Court hired an expert. I think all students have rights. Certainly it does not help education or the rights of students to compel them to spend 2 or 3 hours a day on a bus instead of being with their families and participating in neighborhood activities, such as Boy Scouts and Girl Scouts. I think the rights of the students must be recognized. There must be some fairness in this thing. Playing a numbers game, a balancing game, just does not serve the best interests of the students.

Mr. MICHEL. I agree with the gentleman.

Mr. CRAMER. I thank the gentleman. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding. The gentleman has mentioned that the Court does not have to answer for its actions. Sitting over there this morning and observing the Court, I am even more certain now that we need to pass the bill that I introduced to elect the judges of that Court and also to retire them at the age of 70. If they are going to make the law, which we are supposed to do, then I think they should be answerable to the people as we are.

Mr. CRAMER. Let me make my position understood. I say they should be up for review every 6 years, and should be required to retire at age 70. I yield further to the gentleman.

Mr. EDWARDS of Alabama. We are not too far apart on that, then.

The gentleman has done a great service in preparing his brief. It is a brief prepared from a legal standpoint by a gentleman with a legal background. At the same time he brings practical knowledge to the brief, because the gentleman was the author of the amendment which has been referred to. I think the substance of this brief is, in fact, at the heart of what the Court is going to have to consider and decide as a result of its hearings today and tomorrow. In my opinion, it is most unfortunate that the Court has not seen fit to allow the gentleman to make his oral argument.

Mr. CRAMER. Let me say that this point is exactly what the Court is going to have to decide; is it not? The position of the appellants, the NAACP and what-have-you, is that you have to have racial balance.

Mr. EDWARDS of Alabama. That is correct.

Mr. CRAMER. They will have to decide the question.

Mr. EDWARDS of Alabama. The Congress has been very clear on this. I think it should also be pointed out, or perhaps reiterated, that the oral argument that the gentleman hoped to make was going to be made on behalf of 84 of us who joined him is his brief. We did not go over there and ask the Court to let all of us argue. I am admitted to practice before the Supreme Court as well, but it had been hoped by all of us that the gentleman could make that argument in our behalf. So it is an affront, not only to the gentleman in the well from Florida, who has done such a tremendous job in this area, but to all of those who joined him in the brief. Again I commend the gentleman for what he has done.

Now we can only hope that the Court will in fact sit down and thoroughly study the brief the gentleman has prepared.

Mr. CRAMER. I thank the gentleman.

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

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

Mr. HUNGATE. I thank the gentleman for yielding.

If I understood the gentleman correctly—and I think I do—the Judiciary Committee, on which we served together, was unanimously of the opinion that forced busing would not be required, and when the amendment was considered by the House, the unanimous decision was the same, is that correct?

Mr. CRAMER. The gentleman from Missouri was on the committee at the time with this gentleman?

Mr. HUNGATE. I served on the committee with the gentleman from Florida.

Mr. CRAMER. The gentleman remembers we struck "racial balance" in every paragraph in that bill. This is what the committee said in its report at that time:

> The Committee failed to extend this assistance to problems frequently referred to as "racial imbalance" as no adequate definition of the concept was put forward. The Committee also felt that *this could lead to the forcible disruption of neighborhood patterns,* might entail inordinate financial and human cost and create more friction than it could possibly resolve.

Mr. HUNGATE. Mr. Speaker, I thank the gentleman for putting that in the RECORD and for doing his usual thorough job.

When the Court denied itself the benefit of the gentleman's oral argument, it denied itself the work of a keen analyst of this problem. I regret it very much.

Mr. CRAMER. Mr. Speaker, I thank the gentleman from Missouri.

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

Mr. CRAMER. I yield to the gentleman from Alabama.

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

I could not agree more with the gentleman on the remarks he has made in his special order today, and I want to associate myself with those remarks and also the remarks of others here this afternoon.

I likewise joined the gentleman in the brief, and I commend him on the work he has done on this vital issue. I only wish the gentleman had been given the opportunity to speak for the Members of the House in the historic hearings this week, but that opportunity was denied him. Somehow, I am not surprised. But I can only hope some fairness and some reasonableness and something good will come out of these proceedings across the street. It seems to me absolutely essential that the Supreme Court set out for all to see a national policy—on this national problem. The issue of desegregation, or more correctly, what is to be required by the Constitution to eradicate segregation has for too long been a problem that plagues and divides us. It is my judgment that a national policy allowing freedom of choice of school within the neighborhood school concept would be fair and just to all concerned and help to bring us together as a nation.

Mr. CRAMER. Mr. Speaker, I thank the gentleman from Alabama.

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

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

Mr. DANIEL of Virginia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I associate myself with the remarks the gentleman from Florida has made.

I am not a lawyer, and I am not sure what argument the gentleman would have made, but I think his reasoning is sound.

I should like at this time to announce my intention to introduce a resolution, calling for an amendment to the Constitution to make freedom of choice in public school attendance the law of the land.

Some time ago I decided that, should the Supreme Court's ruling be unfavorable in the Charlotte-Mecklenburg case now being heard, I would introduce such a resolution. My decision to take action at this time is the direct result of the treatment accorded my distinguished colleague, the gentleman from Florida (Mr. CRAMER), who had requested permission to appear before the U.S. Supreme Court this morning as spokesman for 86 Representatives, including myself, who earlier this year joined as signatories to the amicus curiae brief filed in this case regarding the busing of schoolchildren to attain racial balance within geographic areas.

As we all know, last Wednesday, Congressman CRAMER's petition to be heard was denied by the Court. Today, he filed another motion, asking the Court to reconsider, due to the special nature of the case and the fact that the Solicitor General was to be heard. His motion was summarily denied by the court.

Opposition to busing is neither regional nor partisan. The 86 Members for whom Mr. CRAMER was to appear represented nearly equal numbers of Democrats and Republicans, and included 23 Members from obviously non-Southern States such as California, Indiana, and Illinois.

Congressman CRAMER can by no means be dismissed as a novice on the subject, for it was he who framed the antibusing amendment to the Civil Rights Act of 1964.

When the Supreme Court of the United States, the highest court in our land, refuses to hear an attorney Congressman, qualified to appear before that Court, without cause or reason, then we can only assume that the nine judges have completely and totally abandoned their duty to interpret the Constitution and the laws and have embarked on full-time careers in social experimentation at whatever cost to their victims—yes, victims—the children of this country.

Congressman CRAMER requested permission to appear at the opening of the Supreme Court session today as a representative of almost one-fifth of the Members of this body, to express the intent of this body. That Members of Congress should be so suspicious of the motives of the Supreme Court as to feel it necessary to have a legal representative in attendance is a sorry commentary on the feelings engendered by the Court. That Congressman CRAMER should be turned away must indicate to all thinking people that the suspicion was well founded.

Hopefully, the Court will use commonsense reasoning in their decision, and the public school system will not be destroyed. In this event, the constitutional amendment will not be necessary.

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

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

Mr. CRAMER. I yield to the gentleman from Mississippi.

Mr. COLMER. Mr. Speaker, I should like to associate mystelf with the remarks of the able and distinguished gentleman from Florida (Mr. CRAMER).

As one who joined with the gentleman in the presentation of this brief, it is difficult for me to understand why the court in its majesty saw fit not to permit the gentleman an opportunity to present a brief oral argument.

I had always understood from my brief study of the Constitution that the three branches of the Government were equal, and certainly where this body had presented on behalf of a substantial number of Members of this body a brief, it seems that the gentleman should have been afforded an opportunity to present the legislative point of view.

In that connection I should like further to observe that while we hear a great deal about the decision of the Court being the law of the land, again my perusal of the Constitution does not reflect any basis for such statement. The law of the land, according to the Constitution as I recall it, is the laws passed by the Congress and the treaties made with the consent of the Senate, and that is the only place in the Constitution that the phrase "the law of the land" is referred to.

Mr. Speaker, that brings us back to a question here of philosophy. We all recall that a former President of the United States on a previous occasion did send a message down here to stack the Court. That was the phrase generally used. But the Congress, the Representatives of the people, did not give the President that authority. But time and death and retirement and so on brought about a change in that situation, and the objective sought by the then President was achieved by the stacking of the Court with a so-called philosophy, the so-called liberal philosophy.

It seems to me that body has taken unto itself the prerogative which is designated by the Constitution to this body, the legislative body, and has been following a procedure of legislating, which is an intrusion upon the rights of the legislative body. So it would seem that the only answer to this problem is to have a more balanced Court. I certainly hope that when future appointments are made that will be uppermost in the mind of the President of the United States; and the Senate will cooperate.

I thank the gentleman for yielding.

Mr. CRAMER. I thank the gentleman. I have so insisted in my recommendations.

The SPEAKER. The time of the gentleman from Florida has expired.

THE CHARLOTTE DESEGREGATION CASE

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 60 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, I took this time for the purpose of providing more time in the event it was necessary to follow the gentleman from Florida, and I am happy to yield to the gentleman from Florida if he wishes to respond to the gentleman from Mississippi.

Mr. CRAMER. I thank the gentleman. I appreciate his taking this additional time.

I will say to the gentleman from Mississippi it has been my constant effort, and I have been joined by most of my colleagues of at least our joint political persuasion—meaning basically not liberal—in attempting to get the President of the United States to do precisely that. The President has said he will appoint strict constructionists to the Bench. He has done so. He has recommended such appointments. I trust he will continue to do so and I trust that by doing so balance will be returned.

It is my hope that this Court will make a reasonable decision in this instance.

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

Mr. EDWARDS of Alabama. I yield to the gentleman from South Carolina.

Mr. RIVERS. Mr. Speaker, I should like to ask the gentleman from Florida on what ground the Supreme Court would not allow him to argue the case? He is admitted to the bar of the Supreme Court; is he not?

Mr. CRAMER. Yes, sir. I requested permission under rule 44(7) of the Supreme Court rules which indicates that motions to participate in oral argument are favored if made on behalf of the United States or a State, territory, commonwealth, or possession thereof. I submitted to the Court that 84 duly elected Members who joined me in support of my brief represented a sufficient number of the people of the United States to warrant their inclusion within this favored category, meaning the right to argue under the rules.

The problem arises with the Supreme Court rules themselves. This is the rule we felt we were entitled to argue under. I believe we are. I do not know the reason why we were denied.

Mr. RIVERS. How can the Supreme Court deny one who has been admitted to practice before that body, even in an amicus curiae brief. I was admitted to the Supreme Court in 1940, when I was with the Justice Department.

How can they deny the right to come in as an amicus curiae? I can understand under some cases that oral arguments would be denied, but when the gentleman comes in under the grounds he comes in under, I do not see how they can deny the right to orally argue.

Mr. CRAMER. It sounds to me like they are discriminating against Congress, I would say.

Mr. RIVERS. They are discriminating against Congress. They rendered a decision in this school case, and they had not one authority in the Brown case. They just said it was unconstitutional, and the only authority they cited was to suggest generally "the American Dilemma," by that Swedish philosopher.

What was the name of that Swedish philosopher who hangs around here? Gunnar Myrdal. They cited Gunnar Myrdal and said see generally "the American Dilemma."

Here is what I do not understand: the Supreme Court has been legislating. If they are going to take this position, it would add to our contention that their jurisdiction should be limited, and we do have that authority under the Constitution. This is what they have left to us. They have changed their minds on this busing matter two or three times. They have done it in the Charlotte-Mecklenburg case.

Mr. EDWARDS of Alabama. And in the Mobile case.

Mr. RIVERS. Yes, and in the Mobile case. Of course it is serious to America. They are destroying the most priceless thing we have in America, the youth of America, bringing them to school in the dark of the morning and bringing them back home in the dark of night. They are destroying the public school system of America. It is a disgrace to representative government. Like the rest of you, I am offended by such high-handed methods used by the Court, but I am not surprised, because they started off that way. I am hopeful that somewhere down the line the new look of the Supreme Court will get us back on the track.

Mr. Speaker, I want to associate myself with the remarks of the distinguished gentleman. He is a great lawyer and has represented us well. I am happy to be associated with him as one of the group that he represents, and I wish to associate myself with the remarks that he has made and in the remarks he is about to make.

Mr. CRAMER. I thank the gentleman.

Mr. EDWARDS of Alabama. Mr. Speaker, I would like to say, in echoing what the gentleman from South Caroline has said, it is my intention a little later on to put portions of the Mobile County School Board brief into the RECORD. I hope that Members will read it, because it certainly points out the problems that local school boards have had over the last few years. We had one case last year where I got a letter from 30 students who said that they were going into their third school in that school year because there had been that many changes in the Federal court orders affecting their school system. The school board brief sets up clearly how the courts have changed in a matter of weeks previous orders that were issued. When you have a school system of 70,000 children you cannot change it overnight. Yet the courts have done this on many occasions, several times in a given year. You have students who are not getting educated and, in fact, you have students who are not getting integrated, because all too often they are dropping out of school rather than going across town by bus to some other school, as the courts ordered. So it is most important that the Supreme Court delve deeply into the cases before it, the Charlotte-Mecklenburg case, the Mobile case, and the three or four others that they are involved with. I would have hoped that the gentleman's brief and oral argument would have played a great part in the decisionmaking process over there. Hopefully they will read the brief, but unfortunately they will not have the benefit of the gentleman's oral argument.

Does the gentleman from Florida have any further need for time?

Mr. CRAMER. Will the gentleman yield for just one moment?

Mr. EDWARDS of Alabama. Surely.

Mr. CRAMER. The thrust of my argument to the Supreme Court was obviously to the effect that the Congress did act in the field of defining desegregation. It acted within the scope of the 14th amendment and the equal protection clause, and pursuant to the express power of the Congress under section 5, which says that Congress shall have the power to enact laws and to carry out the purposes of that article. Congress having acted, therefore, and having provided a definition and having specifically proscribed the powers of the Court in this area, first in section 401 defining desegregation and, second, in section 407 proscribing the powers of the Court in that area, then that is the law of the land. It is unquestionably the mandate of the people. The Court therefore in making its determination must include that in any definition which it finally decides in this critical and significant case, Charlotte-Mecklenburg.

I felt as I am sure the gentleman did in joining the brief, that this probably will be a landmark case and that actually a unitary system of desegregation must be defined and that it should be uniformly applied throughout the United States.

I trust this is the task the Court has taken upon itself. The Court has the duty to live up to what the Congress has defined and that is that it shall not include busing to balance. The legislative history clearly shows that Congress was concerned with the welfare of the students and the preservation of the neighborhood schools in accomplishing desegregation. The miles to be traveled, the welfare of the students, and the safety of the students must be considered in determining what desegregation is. It was my intention to present a detailed argument to the extent the Court would permit supporting these concepts. I do not think my request should have been denied.

Does the gentleman from Alabama agree?

Mr. EDWARDS of Alabama. I agree completely with the gentleman's statement.

Mr. CRAMER. I believe that under the Constitution there is no way whereby the Court could have done otherwise.

At this point I include my proposed argument before the Supreme Court as part of the RECORD:

PROPOSED ARGUMENT OF CONGRESSMAN WILLIAM C. CRAMER BEFORE THE U.S. SUPREME COURT IN SWANN *v.* CHARLOTTE-MECKLENBURG, NO. 281, OCTOBER 12, 1970

May it please the Court. My name is William C. Cramer. I am a Member of the House of Representatives from the 8th Congressional District of the State of Florida.

During the years 1963 and 1964, when the Civil Rights Act of 1964 was under consideration by the Congress of the United States, I was a Member of the Committee on the Judiciary of the House of Representatives and of its Civil Rights Subcommittee. In that capacity, I had the opportunity of participating extensively in hearings and

discussions in Committee and on the Floor of the House which led to the passage of H.R. 7152, which ultimately became the Civil Rights Act of 1964.

Because I believe that inferior Federal Courts have consistently overlooked, ignored, or circumvented the intention of the Congress in passing that landmark legislation, I filed a brief as Amicus Curiae in this case on behalf of myself and a bipartisan group of 83 Members of the Congress. It is our contention that the Congress, when it passed the Civil Rights Act of 1964, intended to impose legislative guidelines for desegregating the Nation's public schools. We contend that those guidelines were fashioned to govern and define actions by the Executive and Judiciary in this area; that they were intended to be national in scope; that their aim was to eradicate State-imposed segregation; that overcoming racial imbalance or isolation specifically considered and rejected by the Congress in its deliberations.

Article 6 of the National Charter of this Republic provides in part that:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and also treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land;"

It is our position that in enacting the Civil Rights Act of 1964, the Congress has spoken on how desegregation is to be achieved. We submit, therefore, that the fundamental questions before this Court are:

1. Was that Act passed in conformance with duly-conferred constitutional authority?

2. Does the Act, in any way, contravene the Fourteenth Amendment whose protections it was designed to extend?

If the Civil Rights Act is a constitutional expression of authority duly conferred, then I submit that it provides the constitutional standard for achieving desegregation of the Nation's public schools and that this Court is bound by them.

* * * * *

At the outset, let me make one thing crystal clear. School segregation is dead—as a legal proposition it is dead; as a way of life, it is dead.

We are not here today to argue the pros and cons of segregation.

What we are here to consider is whether classification by race is a proper constitutional remedy for removing the inequities in education stemming from former racial classifications in the public school systems of the Nation.

What guides are there to assist this Court in deciding this question?

First and foremost, there is the Constitution of the United States. Whatever we do must comply with its provisions.

Then, there are the expressions of the will of the American people acting through their National Legislature—the Congress of the United States. As Article VI makes clear, when the Congress has acted in conformance with duly conferred Constitutional authority, its mandate becomes the supreme law of the land.

And, last but not least, there are interpretations of all of the foregoing expressions of the people's will by courts of competent jurisdiction.

In my argument, I will focus on two of the foregoing—the Constitution of the United States and the law passed by Congress to extend its protections in the field of public education.

I believe the commands are clear and controlling in the instant case.

* * * * *

At the time the Constitution was being discussed by the Founding Fathers, the institution of slavery was prevalent throughout the former colonies. How slaves were to be counted in the apportionment of representation in the Congress was one of the great issues of the Constitutional Convention. Indeed, it split over the question.

At no time were questions of Negro rights in any of their present ramifications considered by the Convention. The possibility of balancing of student populations in then non-existent public schools certainly never occurred to the Founding Fathers.

Nor did balancing become an issue in the turbulent years that followed. Between the adoption of the National Charter and the Civil War the great issue was not the abolishment of slavery, rather its extension to theretofore free States and territories.

That's what the famous Dred Scott case, decided by the Taney Court, was all about. It, in effect, held that Negro slaves were chattels and, as such, enjoyed no fundamental rights even in Free States.

The War Between the States was fought not to free the slaves but to preserve the Union. Lincoln, for years, hesitated to issue the Emancipation Proclamation for fear that it would seriously jeopardize the Northern Cause. When he finally did, he limited its application to Confederate areas only.

So, up to that time, at least, the notion of balancing by races was never considered.

Not until the post-Civil War period were the Dred Scott disabilities removed and not until ratification of the 13th, 14th, and 15th Amendments were Constitutional protections for Negro citizens finally adopted. But, inasmuch as many of the States—North, South, and Border—which ratified these amendments continued to maintain effective dual systems of laws for Blacks and Whites, the concept of racial balancing was never within their contemplation. Even in the South, which was then being reconstructed, the idea of balancing never reared its head. And, when Reconstruction was ended, Negro rights were proscribed again nationwide in laws, customs, mores, and tradition.

Such proscriptions were given judicial sanction in the famous *Plessy* case under the rationale of "separate but equal." And this doctrine remained the law of the land for the next half a century and more.

Where then did this proposition of classifying by race to remove racial classifications come from? Surely its genesis is not to be found in the *Brown* decisions. The Supreme Court in them simply stated that "separate but equal" was inherently unequal, and had to be eliminated with all deliberate speed.

Ending discrimination in public accommodations and facilities, not compelling their integration, became the objective of Executive, Legislative, and Judicial action in the decade that followed. Insofar as education was concerned, the neighborhood school—equally accessible to Black and White children—remained the ideal.

But in 1963, a dramatic shift of aims and goals was proposed. It was initiated by then-President of the United States, John F. Kennedy, in his Civil Rights Message to that Congress that year. Complaining of "the slowness of progress toward primary and secondary school desegregation," noting that it was more than 9 years since the Supreme Court's decision in the *Brown* case, he called upon the Congress to "assert its specific Constitutional authority to implement the 14th Amendment."

That authority of the Congress, and President Kennedy's clearcut recognition of it, is most important, for it underscores and controls almost everything that has happened since then.

To begin with, the Fourteenth Amendment to the Constitution, one of the post-Civil War Amendments, provides in pertinent part:

"Nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

In many cases, this declaration requires no further clarification.

But in other more complicated areas, it is not self executing. The field of public education is such an area.

Aware that the Amendment would, in some cases, require elaboration and refinement to become effective, the framers of the Fourteenth Amendment specifically provided in Section 5 that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

It was upon this provision that President Kennedy relied when he sent his 1963 Civil Rights Message to the Congress. In it he urged that instead of merely limiting Federal action to desegregation, as had been done in the past, that the Congress should authorize a far broader program. He did so in these words:

"Assistance would be given to those school districts in all parts of the country which, voluntarily or after result of litigation, are engaged in the process of meeting the educational problems flowing from desegregation or *racial imbalance* . . ."

Accompanying his Message was a legislative proposal designed to accomplish these ends. In those provisions applicable to public education, overcoming racial imbalance was an important feature as a reading of applicable provisions makes evident. (See brief pgs. 6–8).

But the people's representatives in the National Legislature refused to accept the Kennedy approach. Wedded to the neighborhood school concept, and fearful that acceptance of racial balancing would destroy that *community building* institution, they attempted not only to eliminate all vestiges of balancing from the bill, but in addition to specifically prohibit any actions by Federal courts or officials which might directly or indirectly sanction it.

After due deliberation in Subcommittee, all reference to racial balancing was stricken from the bill. As set forth in additional views of several leading proponents in the report:

"The Committee failed to extend this assistance to problems frequently referred to as 'racial imbalance' as no adequate definition of the concept was put forward. The Committee also felt that *this could lead to the forcible disruption of neighborhood patterns*, might entail inordinate financial and human cost and create more friction than it could possibly resolve."

Still not satisfied, however, when the measure was considered on the Floor of the House of Representatives, I submitted an amendment to section 401(b) of Title IV which provided:

"Desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance."

Significantly my Amendment was unanimously adopted by the House.

Despite these precautionary efforts, fears over racial balance were widespread in the Senate. To allay them, further assurances were offered by the leadership consisting of Senators Dirksen (Minority Leader), Mansfield (Majority Leader), Kuchel (Minority Whip) and Humphrey (Majority Whip). Realizing that without such assurances, H.R. 7152 would never receive Senate approval, they offered and the Senate approved a new proviso to Section 407(a) which read as follows:

"Provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

Senator Humphrey thereafter undertook to explain the bipartisan substitute amendment. Directly on the matter here at issue, in this case, he declared:

"Next, changes are made to resolve doubts that have been expressed about the impact of the bill on the problem of correcting alleged *racial imbalance* in public schools. *The version enacted by the House was not intended to permit the Attorney General to bring suits to correct such a situation,* and indeed, said as much in section 401(b). However, *to make this doubly clear, two amendments* dealing with this matter are *proposed.*

On the matter of neighborhood schools, he declared:

"This addition seeks simply to preclude an inference that the title confers new authority to deal with 'racial imbalance' in schools, and should serve to soothe fears that title IV might be read to empower the Federal Government to order the busing of children around a city in order to achieve a certain racial balance or mix in schools."

But despite his assurances, and those offered by other proponents of the bill such as Senators Pastore and Javits, doubts remained as to the real purpose of the proviso to section 407(a). Indeed, Southern Members such as Senators Russell and Eastland declared that their purpose was to restrict busing and balancing in the North while allowing it in the South.

Senator Eastland expressed his reservations this way (CONGRESSIONAL RECORD, vol. 110, pt. 10, p. 13820):

"Mr. President, the object of the bill is to preserve segregation in the Northern cities. That is why this provision (proviso to 407) is included in the bill, among other provisions which the Senator from Georgia desires to have stricken from it."

Proponents of H.R. 7152 were at pains to repudiate this intention. Speaking for them, Senator Saltonstall tried to make this abundantly clear (CONGRESSIONAL RECORD, vol. 110, pt. 10, p. 13821):

"Mr. SALTONSTALL. I am very surprised at the amendment for this reason. *I was present at the meetings when the bill was revised, and this clause was particularly studied and discussed.* We tried to provide that the court would not be given any more power than it now has with respect to achieving a racial balance in schools by busing of children or in correcting a racial imbalance.

"As I see it, *it refers to the local administration, wherever that local administration may be. It is not an effort to do something for the North as against the South.* I am certainly opposed to anything in the bill that is of a regional character.

* * * * *

"I am for this provision in the substitute because *it makes clear the authority of the local school boards,* and also clarifies the intent of this title with respect to the limited Federal authority over local situations.

"For that reason, I am surprised at the amendment of the distinguished Senator from Georgia (Mr. Russell). If I correctly understand it, it would give the local authorities less power than they would have in this field under the substitute.

* * * * *

"Mr. SALTONSTALL. As I understand, *this provision would certainly apply to all parts of the country. That is the reason I agreed to the language* in the substitute bill.

* * * * *

"Mr. SALTONSTALL. *The whole purpose of the substitute amendment is to see that the courts will not be given by this law, any more power on the question of busing and the question of racial imbalance than they have at the present time.*

"Mr. SMATHERS. The Senator will agree that whatever rights the local school board has in Massachusetts and other areas, the same rights should be given to the local school boards in Georgia, Florida, and all the rest of the States?

"Mr. SALTONSTALL. Certainly." [Emphasis added.]

At the same time, Senator Javits of New York, a champion of civil rights, sought to clarify what the Congress understood by the term "racial imbalance" insofar as the Constitution was concerned (CONGRESSIONAL RECORD, vol. 110, pt. 10, p. 13821):

"Mr. JAVITS. Mr. President, I believe this amendment can truly be called a "red herring" amendment, because it does not relate to what we are trying to correct by means of the bill. *The amendment relates to racial imbalance and therefore does not relate to a civil right guaranteed by the U.S. Constitution,* and does not go to the point made in the decision in the case of Brown against Board of Education.

"*The Bill would only provide* Federal enforcement for the constitutional right to go to any public school under normal school plans—and the State courts and the Federal courts have authority when they have jurisdiction to pass on normal school plans—*which admit children,* based on reasonable standards, based on neighborhood, or on *whatever other basis there may be for the standard,* and which require that a child cannot be kept out because of his color, if he falls within the normal pattern." [Emphasis added.]

Thus, it could not have been much clearer that applicable provisions of the Civil Rights Act of 1964 were not supposed to be used as a vehicle to impose racial balancing in public schools of the Nation—either North or South. Indeed, the exact opposite was intended.

Yet, almost before the ink was dry on this important legislation, Courts began to hold otherwise. The *Jefferson* case initiated the trend and others since have followed its lead in misreading or else disregarding altogether the duly deliberated and solemnly enacted statutory directions of the Congress of the United States.

If the Constitution does not confer authority on the Courts to classify by race in order to remove racial classifications—

If an Act of Congress passed in accordance with section 5 of the 14th Amendment specifically prohibited such classifications—

Where then do Federal courts derive the authority to bus and balance which they are now asserting?

It may be that Chief Justice Burger has supplied us with the answer when he declared in a recent dissenting opinion:

"I am baffled as to why we should engage in 'legislating' via constitutional fiat . . . The Court's action today seems another manifestation of the now familiar constitutionalizing syndrome: once some presumed flaw is observed, the Court then eagerly accepts the invitation to find some constitutionally 'rooted' remedy. If no provision is explicit on the point, it is then seen as 'implicit' or commanded by the vague and nebulous concept of 'fairness' . . ."

The Constitutionalizing syndrome is clearly at work in the desegregation field. In support of judicial orders to accomplish what the Courts deem desirable ends, they have focused on 'presumed flaws' in neighborhood oriented desegregation plans. They have replaced them with what they pragmatically assert are plans implicity commanded by the Constitution.

This vague and nebulous approach to the law is itself rooted in the doctrine the commentators call "the living Constitution." Under it, the Constitution and its Amendments need no longer be interpreted according to the language in which they were framed, the intent with which they were adopted, or the customs, practices, mores, and traditions in effect at the time of their ratification. Changing times, it is asserted, give rise to changing interpretations of the basic law of our land—even interpretations at odds with the framers' intentions.

Now it is certainly true that any judicial body must be accorded reasonable leeway in interpreting the law in the cases that come before them. But, if the Constitution and statutes supporting it are to be worth the paper they are written on, the amendatory reach of the Courts must be limited.

There is, of course, always a temptation by well-meaning men, vested with judicial authority, to seek to impose their views of justice and right on an often, by their lights, misguided and uninformed people.

But by succumbing to such temptations, they inevitably impinge on the right of a free people to govern themselves. Such temptations must, therefore, be resisted.

All of us are concerned today by the mass disobedience by some segments of our population of laws which they profess are morally wrong, even though such laws were passed by duly elected representatives of the people. If we accord any legitimacy to the arguments of such groups, what then should our attitude be to legislation by judicial fiat? Is anyone morally bound by such edicts when they disagree with them?

To be a Government of laws not men, means to be a Government of due process—in the Executive, in the Legislative, and in the Judicial branches. To tip the balance between the branches of Government must inevitably lead to a disrespect and disregard of authority Constitutionally conferred on each. Ultimately, it must erode the foundations of all.

The Founding Fathers had their own ideas about making the Constitution a living instrument to govern a free people. They provided for an amending process under which fundamental law could be changed. In the absence of an amendment, Constitutional provisions were to be followed by the people's representatives in Congress, by the Executive and by the Judiciary, mindful of its proper role in the Constitutional scheme of things.

When this apportionment of Constitutional responsibilities is upset or ignored, the inevitable result is a crisis of confidence in all our institutions. Such a crisis is everywhere apparent today. It is nowhere more evident than in the field of desegregation.

On several occasions throughout the history of the Republic, this tribunal has tried and failed to make what amounts to basic public policy decisions in the field of race relations. *Dred Scott* was the first and it led to the Civil War. *Plessy vs. Ferguson* was the second and it led to the disenfranchisement of Black Americans for another half century. The *Brown* decision was the third attempt and the unsatisfactory results thus far achieved under it are the reason we are here today.

In Congress, in my judgment, has provided a simple, workable standard for achieving desegregation. If adopted by this Court, the full resources of all three coordinate branches of Government can unite to make equal educational opportunity for all Americans a reality. If, on the other hand, vague and nebulous constitutional authority is asserted by the Court to justify a policy of setting what amounts to racial quotas in public schools, then we will not have solved the problem, but merely perpetuated it. If balancing is right today, it will be right next year, and 10 years from now. If it is valid to overcome residential living patterns in the South, it is equally valid to overcome similar patterns in the North.

What is more, to maintain balance in the face of preferences of individual Americans as to where they want to live guarantees continual disruption of our schools year after year after year with consequent loss in the quality of education and confidence in our institutions.

Which brings us to what I consider the most troublesome aspect of this case. When the Civil Rights Act of 1964 was being considered, the Congress had squarely before it the question of racial balance and we believed we had settled it. President Kennedy's original proposal called for racial balance in public education. He urged that Congress assert its specific constitutional authority under the Fourteenth Amendment to require it. The Congress considered and rejected his request. For most Members, the idea of forcing people to integrate by the numbers constituted racism in reverse. We felt that if compulsion could be used in this area, it could as easily be used in others to force balancing of religious, ethnic and other groups.

Our doubts and fears on this score were not idle ones. They were based on real and present probabilities. Certainly, if balancing is constitutionally demanded for one end, it is equally (and I use that term deliberately) equally demanded for these other purposes.

The laboratories of the world are hard at work perfecting devices which will surely add a whole new dimension to this subject. Effective means and methods for achieving population control, even genetic control, are in the offing.

If racial balancing is constitutionally demanded for the good it will do, think of its potential in these other areas.

My point here is that once this concept receives the blessing of this Court, the precedent will have been established now and for the future—and it will be there regardless of what the Congress may do to alter or prevent it.

Are my fears far-fetched? I don't think so.

If the Court, in this case, declares that balancing by races can be required in the public interest, I predict that within a decade, or two at most, balancing can and will be required in these and other, as yet undreamed of, areas.

And if this comes to pass, God help this Court and these United States.

I thank the Court for its time and attention.

Mr. EDWARDS of Alabama. Mr. Speaker, at this point I include the portion of the Mobile County School Board brief pertaining to the facts in the case in the RECORD:

[In the Supreme Court of the United States, October Term, 1970; No. 436]

BIRDIE MAE DAVIS, ET. AL., PETITIONERS, *v.* BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY, ET AL.

On writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

Brief for the Board of School Commissioners of Mobile County.

Abram L. Philips, Jr., Palmer Pillans, George F. Wood, 510 Van Antwerp Building, Mobile, Ala., Attorneys for the Board of School Commissioners of Mobile County, et al.

Of Counsel Hon. John J. Sparkman, U.S. Senate; Hon. James B. Allen, U.S. Senate; Hon. Jack Edwards, Member of Congress, Washington, D.C.

"For almost a decade there have been judicial efforts to desegregate the schools of Mobile County, Alabama. We wonder when the epilogue will be written." . . . (Judge Goldberg, Opinion in Fifth Circuit number 27849, a collateral proceeding to the primary desegregation case.)

"I have said many times that the best thing that could happen would be for this litigation to come to an end. This is true. But I am unwilling to disregard all common sense and all thoughts of sound education, simply to achieve racial balance in all schools. I do not believe the law requires it. And this litigation will continue to be stirred as long as adequate funds are provided for those who want litigation for the sake of litigation, without regard to the rights of the children and parents involved. The Court has attempted as nearly as possible to comply with the mandate of the Appellate Courts and yet leave it humanly and educationally possible to operate the schools." . . . (Judge Daniel H. Thomas' Opinion attached as part of the January 31, 1970, District Court decree in this case.)

OPINIONS BELOW

The statement of opinions and orders of the courts below made by Petitioner does not include the following orders and opinions, which should be included:

1. Order of the district court filed January 22, 1970, granting the application for intervention of the Mobile County Council Parent-Teachers Associations, et al., unreported.

2. Order of the district court filed January 31, 1970 requiring the re-establishment of an elementary school on Dauphin Island, unreported.

3. Order of the district court filed August 12, 1970 requiring the pairing of Hamilton and Robbins schools, unreported.

4. Order of the district court filed August 12, 1970 appointing the bi-racial advisory committee, unreported.

QUESTIONS PRESENTED

In our brief for the Respondent responding to the petition for writ of certiorari, we opposed the granting of the writ as being unnecessary; consequently we made no specification of questions presented for review, other than with regard to the prayer for relief, pendente lite. We restate that specification here:

I. Under the immediate facts present in this case, should this school system, which is totally integrated and unitary in every respect (except for the existence, as the result of voluntary residential patterns, of two (2) schools with an all negro student body and five (5) schools with an all white student body, out of a total of eighty-three (83) schools in the system), be subjected to another complete reorganization; by the summary adoption by this Court of another desegregation plan (Plan B–I Alternative, urged by Petitioner, pendente lite) that has been rejected by the District Court and the Court of Appeals as educationally unsound and functionally impossible of implementation, and comes to this Court completely unsupported by testimony in any form; to replace the present desegregation plan which was devised by the District Court and United States Department of Justice and the Office of Education of the Department of Health, Education and Welfare, and approved and adopted by the Fifth Circuit Court of Appeals.

Now that the writ has been granted, Respondent is not entirely satisfied that the statement of questions presented for review now made by Petitioner in its present brief adequately presents all of the essential questions fairly raised by this case and now at issue before this Honorable Court. Accordingly, respondent respectfully makes this further specification of questions presented.

II. Does the Constitution of the United States require that the public school systems of the United States assign the teachers of the systems to the schools of the systems in such a manner as to achieve a racial balance of teachers in each school, or some other arbitrary mathematical ratio of black and white teachers in the schools of the system.

III. Does the Constitution of the United States require that the public school systems of the United States assign the students of the systems to the schools of the systems in such a manner as to achieve a racial balance of students or some arbitrary mathematical ratio of black and white students in the schools of the system.

A. Does the mere existence of a school with a student body made up of students all of one race, in a public school system that is otherwise completely integrated and unitary, render the school system constitutionally deficient:

(1) If the student body of such school is all black; or,

(2) If the student body of such school is all white?

B. Does the existence of two (2) schools that have all black student bodies and five (5) schools that have all white student bodies, in a school system of eighty-three (83) schools that is otherwise completely integrated and unitary, render the school system constitutionally deficient?

IV. Under the Constitution of the United States, do white public school students have the same right or an equal right as do black public school students, to the benefit and protection of the Constitution and of the laws of the United States: specifically the Equal Protection Clause of the Fourteenth Amendment, and the Civil Rights Act of 1964. If they do, then it is not Constitutionally sufficient that public school systems assign students to schools on the basis of attendance zones that are fairly drawn to normal standards of educational soundness and upon the basis of non-racial criteria, in order to produce as nearly as possible a system of unitary neighborhood schools.

STATEMENT

I. General introductory information

The Mobile County Public School System is the largest school system in the State of Alabama, with a normal annual enrollment of approximately 79,000 students. The enrollment has steadily decreased since 1965 as a result of public dissatisfaction and other problems associated with the desegregation process. During the past school year (1969–70) total enrollment was 73,504, and this year total enrollment on September 14, 1970, the fourth day of school (the time that enrollment figures are normally recorded) is only 68,623; a further loss of almost 5000 students.

The school system is administered by a board of five commissioners elected from the county at large by popular vote in county wide elections. They serve without compensation. The board in turn employs professional administrative personnel, including a superintendent of schools who has a Ph.D. Degree from Columbia University. The system is a combined city-county system encompassing the entire county, which is largely rural, and every city and municipality in the county, the largest of which is the City of Mobile with a population of some 235,000 persons. Thus the School Board must deal with the whole spectrum of problems and difficulties inherent in the desegregation process, from those peculiar to small rural schools and systems, to those associated with affluent suburban systems, to those found in large, compact metropolitan or urban systems.

During the past school year (1969–70) the School Board operated 89 schools and employed 2605 teachers; fifty nine per cent (59%) of these teachers were white and forty one per cent (41%) black. Student enrollment in the system is normally about sixty per cent (60%) white and forty per cent (40%) black.[1]

II. Statement of the facts

This case has been in litigation since 1963. At that time the school system was, in both a legal and a practical sense, a dual system, with blacks attending one set of schools and whites attending another. There was no student integration, no faculty integration and no integration of services, facilities, activities and programs. This once dual system has now been completely disestablished, and there now exists a unitary school system within which no person is effectively excluded from any school because of race or color; as per Alexander v. Holmes County Board of Education, 396 U.S. 19 (1969). The system is unitary in every aspect of its operation.

The course of the desegregation process from 1963 to the present is reflected in capsule form by the following statistical table:

	1962–63	1963–64	1964–65	1965–66	1966–67	1967–68	1968–69	1969–70	1970–71
Total number of schools	89	93	95	97	98	96	91	89	83
Total number of schools with a biracial student body	0	1	3	10	15	34	57	68	76
Total number of schools with biracial faculty	0	0	0	0	0	10	89	[1] 88	[1] 82
Total number of students enrolled in the system	73,949	76,615	78,652	77,887	77,101	76,090	75,464	73,504	68,623
Total number of students enrolled in biracial schools	0	3,056	4,004	10,474	15,636	28,558	47,560	55,314	64,306

[1] The one school without biracial faculty is Dauphin Island School, a 1-teacher school on an island in the Gulf of Mexico.

The following statistical table illustrates the extent of faculty and student body integration in every school in the system based upon the desegregation plan placed into implementation upon the opening of school on September 9, 1970. This table also indicates the racial character of each school in the era of the dual school system, prior to the start of the desegregation process; and it indicates the racial makeup of the administrative staff (principal and assistant principals) of each school.

Name of school	Racial character of school in dual system era	Current (1970–71) racial character of student body [1]	1970–71 students assigned		1970–71 faculty assigned [3]		1970–71 administrators assigned	
			Black	White	Black	White	Black	White
Adams (Cleveland)	Black	Biracial	293	687	16	25	1	1
Alba	White	do	179	1,463	25(1)	38(1)		2
Arlington	do	Closed						
Austin	do	Biracial	14	384	5	7		1
Azalea Road	White	Biracial	35	999	14(2)	24		2
Baker	do	do	94	984	14(3)	26		2
Barney (Chickasaw Terrace)	Black	Closed						
Barton	White	do						
Belsaw (Mt. Vernon Elementary)	Black	Biracial	209	26	4	3(4)	1	
Bienville	White	do						
Blount	Black	do	1,233	1,041	36	41(12)	2	1
Brazier		Black	1,006		14	17(3)	1	
Brookley	White	Biracial	71	490	7	10(1)		1
Burroughs	Black	do	242	188	6	9(1)	1	
Calcedeaver	White	do [4]		168	2	4½		1
Caldwell	Black	do	307	11	6(½)	3½(6½)	1	
Calvert	White	Closed						
Carver	Black	Biracial [5]						
Central	do	Biracial	1,563	231	24	27(8)	2	
Chickasaw	White	do	75	448	6	8(2)		1
Citronelle	do	do	367	738	19(2)	31		2
Clark	do	do	903	687	23(1)	34(2)		2
Cottage Hill	Black	Closed						
Council	do	Biracial	404	50	6(1)	8	1	
Craighead	White	do	516	242	11	16(1)	1	
Crichton	do	do	144	352	7½	11(1)		1
Dauphin Island	do	White [6]		20		1 [6]		2
Davidson	do	Biracial	78	2,562	37(8)	66(2)		3
Davis		do	176	613	9(1)	16		1
Dawes Union	Black	Closed						
Dickson	White	Biracial	155	579	9	14		1
Dixon	Black	do	181	239	5	6(2)	1	
Dodge		do	62	670	10	14		1
Dunbar	Black	do	940	86	14	13(9)		2
Eanes	White	do	181	823	13(3)	23		2
Eight Mile	do	do	103	556	9(1)	15		1
Ellicott	do	Closed						
Emerson	Black	do						
Evans	White	Biracial	118	91	8	8		1
Fonde	do	do	8	662	8	13		1
Fonville	Black	do	866	15	13	9(11)	1	
Forest Hill	White	White		519	6	10		1
Glendale	do	Biracial	574	257	10	14(2)		1
Gorgas	do	Closed						
Grand Bay		Biracial	152	667	9(1)	15(1)		1
Grant	Black	do	1,077	7	16	9(15)	1	
Griggs	White	do	40	899	11	17		1
Hall	Black	do	852	190	18	23(4)	1	
Hamilton	White	do	204	414	7	11		1
Hillsdale	Black	do	228	493	12	17(1)	1	
Hollinger's Island	White	do	4	391	5	7		1
Howard (Northside)	Black	Closed						
Indian Springs		Biracial	11	507	6	9		1
Lee	White	do	159	641	10	16		1
Leinkauf	do	do	252	194	6	8		1
Lott	Black	do	132	413	8	11	1	
Maryvale	White	do	207	395	8	12		1
Mertz	do	White		373	4	7		1
Mobile County High	do	Biracial	259	624	13(1)	22		2
Mobile County Training	Black	do	699	202	14	8(12)	2	
Mon Louis Island	White	Closed						
Montgomery		Biracial	30	815	10(6)	24		2
Morningside	White	White		674	8	11(1)		1
Mount Vernon	do	Biracial	318	80	5	4½(3)		1
Murphy	do	do	1,546	1,054	31(7)	58		3
Oakdale	do	Closed						
Old Shell	do	Biracial	357	117	5	6(1)		1
Orchard	do	do	113	758	10	15		1
Owens	Black	Black	1,479		20	13(17)	1	
Palmer (Snug Harbor)	White	Biracial	493	104	10	5(9)	1	
Phillips	do	do	820	364	18(1)	28	1	
Prichard	do	do	566	187	12(1)	19	1	1
Rain	do	do	111	1,155	23	35		2
Robbins		do	702	129	9(1)	12(2)	1	
Russell	White	Closed						
St. Elmo	Black	Biracial	49	426	8	11(2)	1	1
Saraland	White	do	35	759	9	13		1
Satsuma	do	do	198	919	17(3)	30(1)		2
Scarborough		do	11	773	13	19(1)		2
Semmes	White	do	23	989	13(2)	23		2
Shaw		do	228	1,293	12(4)	38		2
Shepard	White	do	26	418	4(2)	8		1
Southside	Black	Closed						
Stanton Road	do	Biracial	894	4	13	17(2)	1	
Tanner Williams	White	do	9	345	3(2)	7		1
Theodore	do	do	339	1,516	25(6)	47		2
Thomas	Black	do	74	160	3½	5		1
Thompson	do	Closed						
Toulminville	White	Biracial	454	247	12	14(3)	2	

Footnotes at end of table.

Name of school	Racial character of school in dual system era	Current (1970–71) racial character of student body [1]	1970–71 students assigned		1970–71 faculty assigned [2]		1970–71 administrators assigned	
			Black	White	Black	White	Black	White
Trinity Gardens	Black	do	969	171	15	17(6)	2	
Turnerville	White	Closed						
Vigor	do	Biracial	1,385	930	36(6)	60(3)	1	2
Warren	Black	Closed						
Washington	do	Biracial	780	636	14	11(11)	2	
Westlawn	White	White		332	4(1)	7		1
Whistler	do	Biracial	160	227	6(1)	11		1
Whitley	Black	do	345	127	6	7(3)	1	
Will		do	160	652	7(2)	13		1
Williams	White	do	41	533	8	11		1
Williamson	Black	do	570	594	18	25(2)	1	1
Wilmer	White	do	54	349	4	9		1
Woodcock	do	do	97	145	5(2)	10½		1

[1] Note that although there are 5 schools with all white student bodies, every school has a biracial faculty, except Dauphin Island School, a 1-teacher school on an island in the Gulf of Mexico.
[2] The figures in parenthesis indicate the number of vacancies, by race, yet to be filled in order to reach the 60 to 40 ratio.
[3] By court order Bienville has become a part of the Vigor High School complex, which has an assigned enrollment of 1,385 black, 985 white.
[4] Calcedeaver is attended entirely by a community of persons of entirely mixed bloodlines and is therefore considered biracial.
[5] By court order Carver has become a part of the Blount High School complex, which has an assigned enrollment of 1,233 black, 1,041 white.
[6] As will be noted, this is a small 1-teacher school, isolated on an island in the Gulf of Mexico.

In recent decisions the Courts have set out the various elements that must be taken into account in determining if a school system has been converted from a dual system to a unitary, nonracial system—faculty and staff; transportation; extra curricular activities, including sports; facilities; school construction, consolidation and site selection; transfer policy; and student body composition.[2] The Petition For Writ of Certiorari, and now Petitioner's Brief upon the Writ, directly concern themselves only with student body composition. Nevertheless, since this is only one element of the total desegregation process, it is desirable that some attention also be directed toward an examination of all of the elements of the conversion from dual to unitary school system, as they exist in the Mobile County Public School System.

(1) Faculty and Staff

The School Board has conducted a positive and affirmative program to achieve complete desegregation of faculty. This has been accomplished in many instances by disregarding the Alabama Tenure Laws, as required by the Court; and regrettably, often at the expense of sound educational practice.

The extent of faculty integration has increased sharply each year since August, 1966 when the Court first instructed the School Board to begin faculty desegregation. During the 1967–68 school year, only fifteen teachers taught across racial lines. At the conclusion of the 1968–69 school year all but three of the then ninety-one schools of the system had integrated faculties.[3]

Throughout the 1969–70 school year every school in the system had an integrated faculty, and over 20% of the 2605 teachers in the system were teaching across racial lines in schools where the race of a majority of the student body was opposite their own. This includes both black teachers in predominantly white schools, as well as white teachers in predominantly black schools.[4]

As a result of implementation of the judgments and orders of the District Court and the Court of Appeals now before this court for review, assignments of faculty for the 1970–71 school year have been made in a conscientious effort to achieve a 60% white, 40% black, faculty in every school, as required by the Court; 60/40 being the approximate ratio of white and black teachers employed in the system as a whole. The following statistical table reflects actual assignments as they now exist (as of September 15, 1970). The figure in parenthesis indicates the number of vacancies to be filled, by race. Further adjustments to reach the exact ratio set by the court are being made and will continue until the task is accomplished.

Footnotes at end of article.

Name of school	1970–71 faculty assigned	
	Black	White
Adams (Cleveland)	16	25
Alba	25(1)	38(1)
Austin	5	7
Azalea Road	14(2)	24
Baker	14(3)	26
Belsaw (Mount Vernon Elementary)	4	3(4)
Bienville [1]		
Blount	36	41(12)
Brazier	14	17(3)
Brookley	7	10(1)
Burroughs	6	9(1)
Calcedeaver	2	4½
Caldwell	6(½)	3½(6½)
Carver [5]		
Central	24	27(8)
Chickasaw	6	8(2)
Citronelle	19(2)	31
Clark	23(1)	34(2)
Council	6(1)	8
Craighead	11	16(1)
Crichton	7½	11(1)
Dauphin Island		1 [6]
Davidson	37(8)	66(2)
Davis	9(1)	16
Dickson	9	14
Dixon	5	6(2)
Dodge	10	14
Dunbar	14	13(9)
Eanes	13(3)	23
Eight Mile	9(1)	15
Evans	8	8
Fonde	8	13
Fonville	13	9(11)
Forest Hill	6	10
Glendale	10	14(2)
Grand Bay	9(1)	15(1)
Grant	16	9(15)
Griggs	11	17
Hall	18	23(4)
Hamilton	7	11
Hillsdale	12	17(1)
Hollinger's Island	5	7
Indian Springs	6	9
Lee	10	16
Leinkauf	6	8
Lott	8	11
Maryvale	8	12
Mertz	4	7
Mobile County High	13(1)	22
Mobile County Training	14	8(12)
Montgomery	10(6)	24
Morningside	8	11(1)
Mount Vernon	5	4½(3)
Murphy	31(7)	58
Old Shell	5	6(1)
Orchard	10	15
Owens	20	13(17)
Palmer (Snug Harbor)	10	5(9)
Phillips	18(1)	28
Prichard	12(1)	19
Rain	23	35
Robbins	9(1)	12(2)
Saint Elmo	8	11(2)
Saraland	9	13
Satsuma	17(3)	30(1)
Scarborough	13	19(1)
Semmes	13(2)	23
Shaw	21(4)	38
Shepard	4(2)	8
Stanton Road	13	17(2)
Tanner Williams	3(2)	7
Theodore	25(6)	47
Thomas	3½	5
Toulminville	12	14(3)
Trinity Gardens	15	17(6)

Name of school	1970–71 faculty assigned	
	Black	White
Vigor	36(6)	60(3)
Washington	14	11(11)
Westlawn	4(1)	7
Whistler	6(1)	11
Whitley	6	7(3)
Will	7(2)	13
Williams	8	11
Williamson	18	25(2)
Wilmer	4	9
Woodcock	5(2)	10½

[1] By court order Bienville has become a part of the Vigor High School complex, which has an assigned enrollment of 1,385 black, 985 white.
[2] By court order Carver has become a part of the Blount High School complex, which has an assigned enrollment of 1,233 black, 1,041 white.
[3] As will be noted, this is a small 1-teacher school, isolated on an island in the Gulf of Mexico.

Your attention is directed to the statistical table on preceding pages of this brief (page 7) for a detailed presentation of the substantial number of black principals in charge of predominantly white faculties and white student bodies, and the substantial number of white principals in charge of predominantly black faculties and black student bodies.

(2) Transportation

Mobile is a combined city-county school system with many rural schools. Thus in the traditional manner of rural school systems, there are a substantial number of school busses operated by the School Board to transport students in the rural areas of the county to these rural schools. A few busses are also used to provide transportation for a small number of students residing in remote outlying areas within the city limits.

At one time, during the era of the dual school system, the Board did in fact operate a dual transportation system with overlapping bus routes, utilizing transportation to preserve the dual system. This is no longer the case. Schools in that part of the system where transportation is provided, serve specific geographic attendance zones drawn by the Disrtict Court, and approved by the Court of Appeals, sitting en banc, Singleton v. Jackson, 419 F. 2d 1211; every zone is biracial and every school is integrated. School busses are routed in such a manner as to transport all students in each attendance zone to the school serving the zone. These routes are drawn without regard to race; they do not overlap; each bus picks up and transports every student on its route regardless of the race of the student; students are not segregated within the busses; and the same quality and extent of service is provided in all areas of the county without

reference to the race of the students living in the area. The transportation system is thus operated on a non-segregated and non-discriminatory basis in every respect.* [5] This is entirely conceded by Petitioner in its brief (page 6) where petitioner states: "Since September 1969, the rural portion of the system . . . (which is entirely dependent upon transportation) . . . has been desegregated adequately".

(3) Extra Curricular Activities, Including Sports

All extra curricular activities, including sports, over which the School Board has control are being operated on a non-segregated basis throughout the system, and have been for several years.[6]

All athletic teams at every school are open to every student regardless of race. Participation by minority race students, particularly by black students at traditionally white schools, has been substantial. For example, during the 1969–70 school year several predominantly white high schools fielded biracial backetball teams with more black players than white. There is also cross-scheduling between traditionally black schools and traditionally white schools in all major sports, in regular season play, and all tournament and play-off competitions are conducted on an integrated basis with traditionally white and traditionally black schools in competition against each other.[7]

The same situation pertains to all other extra curricular activities over which the School Board has control, such as bands and other musical groups, ROTC units, speech and other academically related competitions, clubs and organizations, school related social events, parent related activities such as Parent Teacher Associations, and spectator events.[8]

(4) Services, Facilities and Programs

There is no separation of students within the individual schools by race, by sex (except for physical education and gender related courses such as home economics), by class, by tracts or on any basis, other than the normal division of students into grade level and courses of study which divisions have no racial basis.[9]

All facilities are made available to all schools in the system without regard to the present or past racial composition of the schools. Within each individual school of the system all facilities are made available to all students on an equal basis, regardless of race. This includes not only facilities in the strict sense such as restrooms, lunchrooms, classrooms, laboratories, gymnasiums, libraries, playing fields and the like; but also, all services, activities and programs such as bands, orchestras, choral groups, clubs, counseling services, student governments, honor societies, publications staffs, intramural sports, assemblies, class elections and honors, parties and social events; and every other facility, activity and program of every school. This has been the situation for several years.[10]

All schools are treated equally without reference to the past or present racial composition of the school, with regard to the allocation instructional materials, facilities, equipment, furnishings, supplies, textbooks, allocated funds and every other item provided to or for schools of the system; and courses of instruction are offered without regard to race. This also has been the situation for several years.[11]

Not only are all facilities, services, activities, and programs available to every student without regard to race, and operated on a non-segregted, non-discriminatory basis, but actual participation by minority race students is substantial.[12]

Footnotes at end of article.

(5) School Construction, Consolidation and Site Selection

The fault of the School Board is that for many years it followed the unusual practice of building schools where the children are. Now, the construction of or addition to any school, and the selection of any school site, must have the prior approval of the Court. This has been a part of the Mobile desegregation plan since 1968.

The School Board is genuinely perplexed and uncertain as to what shifting standard may next apply, or from time to time apply. with regard to school construction plans and programs. The Board has already suffered substantial financial loss as a consequence of land acquisition and other construction preparations made with District Court approval, later reversed and erased by the Court of Appeals.[13] As a result the School Board's building program has been at a total standstill for three years. No schools have been constructed and no school sites selected during this time.

The last schools constructed in the system were Dodge and Adams in 1967 and Grand Bay in early 1968. Dodge and Adams opened their doors for the first time in September 1967, both as fully integrated schools. The current assigned enrollment at Dodge is 62 black and 670 white. The current assigned enrollment at Adams, which first opened its doors as a predominantly black school, is 293 black and 687 white. Grand Bay first opened in September 1968. The current assigned enrollment at Grand Bay is 152 black and 667 white.[14]

Regarding school consolidation, there have been a number of consolidations, some proposed voluntarily by the School Board and some required by the District Court, within the past three years. Each has resulted in a significant increase in the extent of integration in the system. Some of the more significant consolidations are: [15]

1. Closing of the all black Emerson Elementary school and distribution of its students to two adjacent schools, one of which had been traditionally black (Council) and one traditionally white (Leinkauf), producing an enrollment at Leinkauf of 224 white and 235 black.

2. Closing of the all black Robert Thompson School and consolidation of its students into the theretofore all white Wilmer School.

3. Closing of the all black Cottage Hill Elementary School and the distribution of its students to the theretofore all white Fonde, Shepard and Dodge Elementary Schools.

4. Consolidation of the all white Citronelle and all black Rosa Lott Schools, resulting in the following enrollments: Citronelle, 800 white and 400 black; Rosa Lott, 465 white and 145 black.

5. Conversion of the all white Augusta Evans School to a school for special students with an enrollment of 54 white and 87 black, and a faculty of 8 black and 8 white.

6. Closing of the traditionally white Arlington Elementary School and the distribution of its students to surrounding schools, some of which are predominantly white, and some of which are predominantly black.

7. Closing of the all black Warren Elementary School and the distribution of its students to the traditionally white Crichton Elementary School and other schools, predominantly black, producing an enrollment at Crichton of 57 white and 240 black.

8. Closing of the all black Barney School resulting in the distribution of its students to surrounding schools, some predominantly white and some predominantly black.

9. Consolidation of the all black Belsaw and the all white Mount Vernon schools, resulting in integration of both schools.

10. Consolidation of the all black St. Elmo and all white Theodore Schools, resulting in the following enrollments: St. Elmo 436 white, 54 black; Theodore 1466 white and 335 black.

11. Consolidation of the all black Burroughs, all black Dixon and all black Dawes Union Schools with the all white Griggs and all white Davis Schools resulting in:

(a) Closing of the all black Dawes Union School

(b) Integration of the other four schools producing the following enrollments Burroughs: 192 white, 290 black; Griggs: 865 white, 41 black; Davis: 591 white, 178 black; Dixon: 249 white, 189 black.

12. Closing of the all black Howard School and the absorbtion of its students into Old Shell Road School, a traditionally white school.

As do most large school systems in cities undergoing large scale population shifts as a result of Federally sponsored urban development programs and other factors, the Mobile Public School System has found it necessary to resort to the use of portable classroom units that can be moved from one permanent school facility to another. Some schools have adequate basic facilities (land area, lunchroom, library, physical education, special facilities) to accommodate a number of portable classrooms; some do not. Within this basic limitation, the Board follows a policy of locating portable classrooms solely on the basis of and for the purpose of providing the facilities necessary to accommodate the students assigned to the various schools by the terms of the various orders of the Court itself.[16]

(6) Transfer Policy

The entire transfer policy now in use, including a majority to minority transfer provision, was formulated by the court itself. This policy is operated in accordance with provision prescribed by the court and is applied uniformly throughout the system.[17] The transfer policy is attached to this brief, as APPENDIX I.

(7) Bi-Racial Committee

The District Court, upon the suggestion of the Court of Appeals, has appointed a biracial committee to advise and assist the School Board and the Court in the operation of the Court ordered desegregation plan and the maintenance of a unitary school system. The committee, appointed by the District Court on August 12, 1970, has ten members, five black and five white.[18] The committee became active immediately and has begun to make its presence felt.

(8) Student Assignment

The total desegregation plan for the whole system, now in full implementation, assigns every student in the system to a school on the basis of a unitary system of geographic attendance zones, drawn by the District Court, the Court of Appeals, the U.S. Department of Justice, and the Office of Education of the Department of Health, Education and Welfare. In addition to this, in three instances, two adjacent elementary school zones have been paired; Council-Leinkauf, Palmer-Glendale and Hamilton-Robbins. This has produced the assigned enrollments for the 1970–71 school year set out in the statistical table in a previous section of this brief (page 7).

III. The desegregation process—chronologically

At the outset of this litigation the Board of School Commissioners of Mobile County committed themselves to compliance with the constitutional mandate of the Fourteenth Amendment of the United States Constitution, as originally stated by this Honorable Court in Brown v. Board of Education of Topeka, 347 U.S. 483, that the opportunity for education is:

"a right which must be made available to all on equal terms."

Full comprehension of the obligations of school systems with reference to the legal principles arising out of Brown, and the constitutional principles interpreted by Brown, has not always been easy for this School Board; as it has not been easy for school boards and courts throughout the nation. (Compare: Brown; Briggs v. Elliott, 132 F. Supp. 776, United States v. Jefferson County Board of Education, 372 F. 2d 836, 380 F. 2d 385, cert, denied 389 U.S. 840; Green v. County School Board of New Kent County, Virginia, 391 U.S. 430; Alexander v. Holmes County Board of Education, 396 U.S. 19; Avery v. Wichita Falls Independent School District, 241 F. 2d 230; Borders v. Rippy, 247 F. 2d 268; Boson v. Rippy, 285 F. 2d 43; Ellis v. Board of Public Instruction of Orange County, 423 F. 2d 203; Kemp v. Beasley, 423 F. 2d 851 (C.A. 8th, 1970); Deal v. Cincinnati, 324 F. 2d 209; and Deal v. Cincinnati, 419 F. 2d 1387). Indeed, it has often been an impossible task for a school board to determine not only what its current obligation may be, but to predict or anticipate what shifting standard may next apply.

It is against this background that school boards have had to proceed with the business of educating children on the one hand, while pursuing an illusive judicial phantom on the other; and the two have not always been totally compatible. For not being able to anticipate in advance or immediately adjust over-night to each new standard, for not being able to accomplish in fact, that which a court can accomplish on paper with a stroke of the pen, school boards throughout the country, this one included, have been labeled racist, lawless, uncooperative, contemptuous and recalcitrant. Realistic appraisal of the extent of integration in this school system, taken in the abstract or in comparison to the extent of integration in any and every other comparable school system in the nation, exposes the shallowness of such charges as sought to be applied to this school system.

In an earlier section of this brief (page 7) we have observed the progress of the desegregation process from a purely statistical standpoint. A chronological examination of the process from the judicial standpoint should now be helpful.

1962–63

The Mobile County Public School System began the 1962–63 school year as a dual school system. Students were assigned to neighborhood schools on the basis of geographic attendance zones. The zones were drawn on a racial basis with overlapping zones for white and negro schools. The zones, both black and white, were drawn with strong reliance on sound educational principles, including: consideration for traffic and other safety hazards, distance, routes of travel and access, barriers such as rivers and industrial complexes, and adherence to the basic neighborhood concept. Because of the dual zone aspect, this resulted in several split zones (such as for the Warren School which is no longer in use, but was at that time all black) and the temporary transportation of some students in the city part of the system pending completion of construction of a school, (such as Hillsdale Heights School, built in the middle of a suburban black community to establish a dual zone in that area).[19]

Suit was filed in March 1963 by a group of black parents and students seeking an injunction to require the School Board to begin desegregation of the school system.

1963–64

As a result of action in the District Court and in the Court of Appeals the School Board was directed to begin the 1963–64 school year with desegregation of the system on a one grade a year stair-step plan.[20] The Board moved immediately to comply with the orders of the court, and did so in good faith throughout the 1963–64 school year.

1964–65

On the basis of a motion for further relief, resulting in action in the District Court and the Court of Appeals, for the 1964–65 school year the Board was directed to speed up the stair-step desegregation plan by applying it to two grades per year rather than one and to abolish dual zones for each grade as it was reached in the stair-step progression.[21] Again, the School Board moved immediately to comply with the order of the court, and did so in good faith throughout the 1964–65 school year.

At this point this School Board, as all others, was proceeding upon the understanding that its legal and constitutional obligation was defined by Brown I, supra, which stated that education is, "a right which must be made available to all on equal terms"; Brown II[22] which enunciated the doctrine of "all deliberate speed"; and subsequent cases construing Brown I, such as Briggs v. Elliott, supra, which stated, "It (Brown) has not decided that the states must mix persons of different races in the schools . . . The Constitution, in other words, does not require integration. It merely forbids discrimination"; and that the basic neighborhood school concept was not inconsistent with this obligation.

1965–66

In response to the court's directive to do away with dual attendance zones the Board, in good faith, moved to comply, and undertook a redrawing of the zones. This effort did away entirely with dual zones and, while maintaining fidelity to the basic neighborhood school concept, produced a set of unitary zones. The 1965–66 school year began upon the basis of these unitary zones. The desegregation plan opposed by the board and approved by the court also contained, in deference to the strong feelings of both black and white citizens concerned with being caught in an inordinately difficult zone, a provision giving every student, black and white, the absolute right to attend the school of his zone or the nearest school formerly predominantly of his race, at his option. This was quite aptly named, the Option Plan.

At this point this School Board, as most others, continued to seek in good faith to adjust itself in order to comply with its constitutional obligations, as they were defined and refined by the succession of cases following Brown I and II, supra, and Briggs v. Elliott, supra. Reference is had to the following cases, among others:

Avery v. Wichita Falls Independent School District, 241 F.2d 230, . . . "The Constitution as construed in the School Segregation Cases . . . forbids any state action requiring segregation of children in public schools solely on account of race; it does not however, require actual integration of the races."

Borders v. Rippy, 247 F.2d 268. . . . The equal protection and due process clauses of the fourteenth amendment do not afirmatively command integration, but they do forbid any state action requiring segregation on account of their race or color of children in the public schools."

Holland v. Board of Public Education, 258 F. 2d 730. . . . The Fourteenth Amendment does not speak in positive terms to command integration, but negatively, to prohibit governmentally enforced segregation."

Boson v. Rippy, 285 F. 2d 43, . . . Negro children have no constitutional right to the attendance of white children with them in the public schools. Their constitutional right to 'the equal protection of the laws' is the right to stand equal before the laws of the State; that is, to be treated simply as individuals without regard to race or color."

1966–67

On August 16, 1966, less than three weeks before the opening of school for the 1966–67 school year, the Court of Appeals reversed a decree of the District Court and required that the School Board's existing Option Plan be modified so as to provide for every student in the system the blanket option of attending the school of his zone, or at his option the nearest black school or the nearest white school.[23] Again, as in the past, the School Board moved immediately to amend the existing desegregation plan to incorporate this change required by the Court of Appeals, and implemented the same in good faith throughout the 1966–67 school year.

In addition, the Court of Appeals required the Board to: (1) add to its transfer policy the right to transfer in order to get a course of study not available at the school where a student is assigned; (2) speed up the stair-step application of the desegregation plan; (3) prepare to begin faculty desegregation.

The School Board also moved immediately to comply with these requirements. The stair-step application was immediately accelerated as specified; the subject matter transfer provision was immediately adopted, and remains a part of the transfer policy today; and preparations were made to commence faculty desegregation with the beginning of the next school year, including immediate initiation of inservice training of bi-racial teaching teams.

On its own, and without any suggestion or prompting from the court, the School Board began taking steps toward desegregation of its transportation system in the rural part of the school system, and desegregation of all services, facilities, programs, activities, and extra curricular activities, including sports.

1967–68

In March, 1967, the United States Department of Justice was permitted by the District Court to intervene. In July, upon a motion for further relief, the District Court held an exhaustive evidentiary hearing over a period of several weeks between July 18 and August 18.[24] On October 13, 1967 the District Court entered a decree, accompanied by full Findings Of Fact and Conclusions Of Law.

In this Findings of Fact the District Court found:

(1) That there was no evidence of discrimination by race in the administration of the desegregation plan.

(2) That all services, facilities, activities and programs of the school system are available to every student and to every school in the system, without reference to race, including: restrooms, lunchrooms, special facilities and equipment, athletic teams, bands and choral programs, clubs and student groups, counseling, honor societies, dances and other social activities.

(3) That the defendant had formulated a specific plan for faculty desegregation, had commenced faculty desegregation, and had made sufficient and proper effort in the prevailing circumstances.

(4) That all staff and staff activities are integrated.

(5) That the Board had instituted remedial programs for the benefit of black students in the system, receiving the commendation of the Office of Education of HEW.

(6) That the Board had voluntarily undertaken several school consolidations, resulting in the closing of all black schools and the consolidation of the black students into schools that were either all white or predominantly white.

(7) That the Board was following a policy of constructing, renovating and maintaining schools without regard to race.

(8) That furnishings, fixtures, equipment, facilities, textbooks, supplies, allocated funds and courses of study are allotted to all schools without regard to race.

(9) That no complaint had been made to the Court by anyone as to discriminatory

Footnotes at end of article.

action of the board in administration of the desegregation plan.

There has been no subsequent finding to the contrary on any of these points.

In the meantime the 1967–68 school year commenced and the School Board, in good faith, implemented the desegregation plan prescribed by the courts, including several modifications prescribed by the district court as a result of the exhaustive evidentiary hearing.

1968–69

On March 12, 1968 the Court of Appeals, relying heavily on the previous opinion of the court, en banc, in United States v. Jefferson County Board of Education, 372 F.2d 836 and 380 F.2d 385, entered an opinion in which it required the School Board to withdraw its attendance zones in the urban or city portion of the system, saying:

"The percentage of total students in biracial schools is superficially acceptable, but beneath the surface the picture is not good. . . . Having found the results of the present plan unsatisfactory, we turn to the difficult question of what should be done. . . . In this case, it will be necessary for the board to do the job again, this time making a survey of the type suggested by appellants. On the basis of information obtained from the survey, school officials will draw attendance-zone lines on what they conceive to be a *nonracial basis.*" [25] (emphasis supplied)

In addition, the Court of Appeals also required: (1) elimination of the Option provisions of the plan; (2) further steps with regard to elimination of faculty; (3) a survey of the system and certain reports to the court; (4) the cross-scheduling of formerly white and formerly black schools in athletic competition; (5) certain restrictions on construction; (6) for the rural portion of the system, either a redrawing of zone lines, or the use of a freedom of choice plan of the type outlined in Jefferson supra.

The Court of Appeals actually prescribed a specific decree for entry by the district court. It began by stating:

"As stated in the opinion of the Courts of Appeals, the primary concern is that attendance-zone lines be drawn on a nonracial basis." (emphasis supplied) (*id.* at 696).

This decree was entered verbatim by the District Court on May 13, 1968. Once again, in good faith, the School Board moved promptly to carry out the directions of the court. The survey was made and filed with the court. The student assignment problem was carefully restudied and attendance zones were redrawn. The redrawn zones were filed with the court on May 7, 1968 even before the District Court had proceeded to enter the decree specified by the Court of Appeals. Two months later, in the face of mounting public hostility and pressure over dissatisfaction with the redrawn zones, the School Board asked the court to consider the possibility of placing the entire school system on a freedom of choice plan of student assignment.

Commencing on July 17, 1968 the court held another full (6 days) evidentiary hearing, the second in as many years. During the course of the hearing both the Justice Department and the Petitioners presented to the court their own separate set of proposed zone lines for the urban portion of the system. As commented upon by the District Court in its decree, both of these plans provided for the continued existence of some all white and some all black schools.[26]

Ultimately, the District Court rejected all three proposed zone plans (Board, Petitioner and Justice Department). It then entered a decree calling for the following plan of student assignment:

(1) In the rural part of the system—freedom of choice, as specifically provided by the Court of Appeals, and as specifically requested by the Justice Department.[27]

(2) In the urban part of the system—freedom of choice in the high schools, and attendance zones for elementary junior high school, with the zones drawn by the court itself.

Referring to Green v. County School Board of New Kent County, Virginia, 391 U.S. 430, the court provided that the freedom of choice portion of its plan would operate only on an interim basis, to be continued, or not, from year to year dependent upon the speed of desegregation accomplished.[28] This decree also provided for the closing of two all black schools and one all white school.

Once again, the School Board moved promptly to implement the Decree of the Court, and continued to implement the same in good faith throughout the 1968–69 school year. In the meantime, an appeal was taken.

During the course of the year the School Board also sought permission of the District Court to build a new elementary school building to replace a substandard building at the Howard Elementary School, and to add an additional building at Toulminville High School. After an evidentiary hearing permission was granted by the District Court. Subsequently on appeal the Court of Appeals reversed, concluding that the buildings would tend to perpetuate the dual system. Howard has now been abandoned; the assigned enrollment at Toulminville is 453 black, 247 white.

1969–70

On June 3, 1969, on the appeal of the District Court order, the Court of Appeals switched horses in the middle of the stream and again reversed the District Court. Reversal was on the theory that the zone lines drawn by the district court should have been drawn on a racial basis rather than a nonracial basis as most recently ordered by the Court of Appeals, and that the statistical extent of desegregation in that portion of the system under freedom of choice was unacceptable, in view of Green v. County School Board of New Kent County, Virginia, supra.[29]

The Court of Appeals remanded to the District Court and directed the court to request the Office of Education to collaborate with the School Board in the preparation of a revised plan of student assignment, providing: (1) that HEW and the Board should try to agree upon a revised plan; (2) that if HEW and the Board could not agree, HEW should file its own recommendations for a plan, (3) that all parties could then file objections and suggested amendments to the HEW recommendations; (4) that for plans as to which objections are made or amendments suggested or which in any event the district court will not approve without a hearing, the District Court should have a hearing, within ten days (5) that a new plan for the 1969–70 school year shall be approved by the District Court no later than August 1, 1969.

Pursuant to the June 3, 1969 opinion and mandate of the Court of Appeals, on June 4 the District Court contacted HEW and requested their attention. HEW did not respond until June 11, and it was not until June 16, after thirteen (13) of the allotted thirty (30) days had elapsed, that the professional staff of the school system was able to establish a working relationship with HEW.[30]

Although a great deal of work was done and every effort was made, no plan could be agreed upon by the School Board and HEW within the remaining allotted time, seventeen (17) days. In accordance with the decree, HEW filed its own recommendations with the District Court on July 10.

On July 21, 1969, the School Board filed extensive objections to the HEW proposal pointing out in some detail why various portions of the HEW recommendations are educationally unsound and incapable of effective administration. At the same time, as also provided by the decree, the School Board filed its recommended alternatives. When it became apparent that the District Court did not intend to have a hearing, the School Board supported its objections and alternative recommendations by affidavit testimony filed in the District Court on July 29, 1969.[31] Although the Court of Appeals decree had invited them to do so, Petitioners and the Justice Department chose not to submit alternative recommendations of their own to the court; and neither of them requested the district court to hold an evidentiary hearing.

On August 1, 1969, the District Court, consistent with the mandate of the Court of Appeals, entered its order approving a plan for operation of the school system for the 1969–70 school year. In formulating this order the District Court, using its own knowledge of the school system and current circumstances as it had done on a previous occasion, put together its own desegregation plan. In doing so, it rejected almost entirely the alternatives recommended by the School Board, and rejected in part and accepted in part the recommendations of HEW.

This desegregation plan formulated by the District Court itself, did essentially the following things:

(a) It required and accomplished integration of faculty in every school of the system.

(b) For all but nine (9) of the then eighty nine (89) schools of the system it established revised unitary attendance zones, drawn on a basis taking race into account along with other factors in order to maximize integration. (Resulting in the assignment of approximately 70,000 of the systems then 73,500 students to bi-racial schools).[32]

(c) It required the School Board, again working with HEW, to undertake further study and effort toward the development of a still further modification of the desegregation plan with reference to those schools east of Interstate Highway 65, where the excepted nine (9) are located; and to submit the suggested modifications to the court by December 1, 1969, for implementation in September 1970.

The School Board moved immediately to comply with this Order of the Court, as it had done with all previous orders, and began implementation of the order, in good faith, with the opening of school for the 1969–70 school year. Good faith implementation was continued throughout the school year, until of course, the plan was subsequently changed by the court in the midst of the school year.

In the meantime an appeal was taken by Petitioner from the District Court order of August 1. The Justice Department did not appeal. On the appeal the Petitioner took the position that the plan devised by the District Court was satisfactory as it applied to the rural portion of the system, satisfactory as to the urban portion of the system west of Interstate Highway 65, and unsatisfactory only as to the aspect of student assignment for that portion of the system east of Interstate Highway 65.[33] The Justice Department took the position that the Order of the District Court was satisfactory in every respect, stating in its brief to the Court of Appeals: [34]

"Under the circumstances of this case, we believe the August 1 Order is consistent with this Court's June 3, 1969 decision in this case."

In the Court of Appeals the case was consolidated with others and heard by the court sitting en banc. The Court of Appeals reversed the District Court in all of the other consolidated cases and sustained the District Court in this case.[35] Upon certiorari to this court, the Court of Appeals was reversed, and the case remanded for further proceedings consistent with Alexander v. Holmes County Board of Education, 396 U.S. 19.[36]

In the meantime the professional staff of the school system had restudied the area of east of Interstate Highway 65, as instructed by the District Court in its Decree of August 1, 1969, and filed its recommendations in the District Court on December 1, 1969. HEW

Footnotes at end of article.

disregarded the District Court directive to work with the School Board, and filed hastily prepared recommendations (three alternative recommendations) in the District Court, also on December 1, 1969.[37]

Upon remand from the Supreme Court, the Court of Appeals directed all counsel to propose to the court an expeditious manner of proceeding with the case. The School Board responded, and among other things suggested immediate remand to the District Court for an evidentiary hearing, with directions to the court to have the hearing and enter its order not later than January 26, 1970, so as to enable the Board to begin implementation immediately upon commencement of the second semester of the school year.[38] The Justice Department and Petitioner both responded, but did not suggest an evidentiary hearing, although Petitioner loudly complains now for lack of a hearing.[39]

On January 21, 1970 the case was sent by the Court of Appeals back to the District Court, without directions for an evidentiary hearing, although such had been requested by the School Board.

The next day, January 22, 1970, the District Court held a conference of all attorneys at the conclusion of which the court asked the School Board to submit to the Court any modifications that it cared to suggest in its previously submitted plan of December 1, 1969 and asked the Justice Department to submit any suggestion it might have for modification of the HEW December 1 submisison; noting that as they stood, neither of these plans were acceptable to the court.[40]

The Justice Department hastily prepared some revisions of the HEW recommendations. This work was exhibited to the District Court at a second conference with the Court on January 27, 1970. At that time however, the essential part of the work, the maps setting out the proposed attendance zones, were not complete. Copies were not given to the court, nor to counsel and nothing was filed of record with the Clerk of the Court. [41]

Contrary to what is stated in Petitioner's brief (page 19) where it is said . . . "The School Board failed to respond to the Court's request." . . . on January 30, 1970 the School Board filed a five (5) page response in which it suggested several very minor modifications, and pointed out the following things: [42]

"2. These recommendations were developed over a period of approximately three months. They reflect the expert thinking and best judgment of competent, trained, professional educators who are thoroughly and intimately familiar with the school system. The desegregation plan embodied in these recommendations was soundly conceived and carefully fashioned in order to comply with all legal requirements imposed by the Court; and at the same time to do so in a manner that will be educationally sound, will cause the least possible hardship to the least number of students, parents and teachers, and will present the least possible danger of destruction of or substantial harm to the school system. If there were other recommendations that would accomplish all of these things better and more fully they would have been included as a part of the December 1 recommendations to begin with; but there are none.

3. It should be pointed out that what the Court has now done is to order the Board to attempt to have its professional staff to hastily, in a matter of several days, alter and revise the end product of this three months of extensive, careful, analytical work. Such a hasty effort cannot be expected to produce competent results. If we were merely dealing with maps and figures on a piece of paper this would present no problem; but we are not, we are dealing with human beings, children, and the very life of a public school system. The professional staff people indicate that what the Court has suggested calls upon them to violate and sacrifice professional standards and principals that they, as professional educators, hold inviolate, and this they cannot do."

Facing a mandate to enter an Order before February 1, and finding the HEW recommendations, the School Board recommendations and the Justice Department revisions all not to its liking, and there being insufficient time for an evidentiary hearing, the District Court once again drew upon its own knowledge and prepared a new set of attendance zone lines for the schools concerned, i.e., those in that part of the urban portion of the system lying east of Interstate Highway 65. The court, on January 31, 1970, entered its Decree setting out these zone lines for implementation as soon as practicable. This Decree also added to the existing desegregation plan, a majority to minority transfer provision.

Although the School Board was confronted with a major upheaval and the task of rearranging a large part of the school system during the middle of a school term, necessitating the displacement and reassignment of some 15,000 students, they set about the task in god faith.[43] On March 20, 1970 full implementation was completed. On April 14, in response to directions from the Court of Appeals, the District Court made supplemental findings of fact in support of its January 31, 1970 decree.

In the meantime, appeals were filed by Petitioner and the Justice Department, and a cross-appeal by the School Board. As these were pending the 1969–70 school year ended in virtual chaos, with boycotts by white and black students and parents objecting to forced reassignment, massive absenteeism, racial disorders in a number of schools necessitating use of the police riot squads, large scale residential relocation, and upsurge of school vandalism, definance of school authorities, the court and law enforcement officials by parents and students, and large scale disruption of the normal educational process in general. Essentially, the school year ended on January 31 for a large part of the school system, because the education process simply came to a halt.

1970–71

On June 8, 1970 the Court of Appeals, on the pending appeal, entered an opinion and judgment setting out a new plan of student assignment for that part of the urban portion of the school system lying east of Interstate Highway 65.[44] As its judgment the Court adopted in toto the Justice Department revised plan exhibited to the court, but never formally filed of record, in the January 27, 1970 conference. This material, maps and accompanying statistical tables, was furnished to the Court of Appeals, ex parte, by attorneys for the Department of Justice. It was not a part of the record designated by any of the parties for the Court of Appeals. It represented not the work of an educator or school administrator, but of a Justice Department Attorney and a young female statistical clerk over a period of four days. It came to the Court unauthenticated, and unsupported by testimony of any sort. This perhaps explains the obvious mistakes referred to in footnote 44.

The School Board strongly protested the exparte handling of so serious a matter, and with good reason.[45]

Nevertheless, on June 12, 1970, the District Court entered its order requiring the School Board to implement the new plan set out by the Court of Appeals. Promptly, and in good faith, the Board and its professional staff set about the difficult task of compliance; beginning a program to educate the public to the substantial changes required by the court; and formulating the necessary steps to be taken within the school system, including the conversion of three high schools to junior high schools.

Then, on July 13, 1970 without notice to the School Board nor an evidentiary hearing, the District Court entered another order which, in essence, set out a still further and different plan of student assignment for the area concerned, i.e., the schools in the eastern part of the urban portion of the system.[46] Once again, for the second time in five weeks, the School Board began the task of preparing the public and the school system for an entirely new desegregation plan.

Petitioner took an Appeal from the Order of July 13, and sought an injunction staying the order of the District Court. The School Board filed a Response in which it noted that it was in the unusual position of defending a District Court Order that it had not sought, and one with which it could only partially agree.[47] We then pointed out to the Court of Appeals a comparative analysis of the two plans which indicated clearly that the District Court approach not only avoided many of the functional impossibilities and points of educational unsoundness (with which we were most seriously concerned) but also actually increased the extent of integration as well.

On August 4, 1970, the Court of Appeals denied the Motion to Stay and entered an opinion sustaining the District Court.

In the meantime, on July 30, the District Court, without notice to anyone, had entered a further order, modifying thirty-two (32) of the attendance zones established just seventeen (17) days earlier by its Order of July 13.[48]

Again, for the third time in less than two months, the School Board was faced with the task of making a substantial rearrangement of the school system. With the opening of school five weeks away, the Board moved promptly, if a bit frantically, to prepare the public and the school system for implementation of this new order.

On August 17, Petitioner, after delaying eighteen (18) days, appealed and moved the Court of Appeals for summary reversal. This appeal and motion were not timely inasmuch as the Court of Appeals had previously suspended the Federal Rules of Appellate Procedure for this and every other school case in the circuit, to require the filing of all appeals within fifteen (15) days.[49] This point was raised by this counsel and by counsel for the Mobile County Council Parent-Teacher Associations, an intervening party.[50]

Nevertheless, the Court of Appeals entertained the appeal and the motion and on Friday, August 21, notified this counsel of a conference in the Chambers of Judge Griffin Bell, one of the Judges of the Court, the following Monday, August 24. This conference was most irregular in that the Court did not notify counsel for the County Council, PTA, of the conference or invite their attendance, as a consequence of which they were not present.[51]

Following this conference, on August 28, with the opening of school eleven days away, the Court of Appeals entered an opinion "terminating" the appeal in which it partially granted and partially denied the Motion For Summary Reversal; and in addition, required certain further rearrangement of several attendance zones, not involved in the appeal.

Once again, for the fourth time in less than three months, and with the opening of school elevent (11) days away, the Board turned in good but weary faith to the task of a substantial rearrangement of the school system.

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On September 9, 1970 the 1970–71 school year commenced amid the chaos of a plan of student assignment pieced together at various times by the District Court, HEW, a Justice Department attorney, the Court of Appeals, a young lady statistical clerk and finally Judge Griffin Bell. In essence, this school year opened as the past year had closed; boycotts by white and black students and parents objecting to forced assignments, massive absenteeism (first day enrollment 62,094, down approximately 11,400 from the end of school last year), defiance of school authorities, racial disorders and physical violence in several of the schools (necessitating use of the police riot squad, and at one high school the daily attendance of approximately 80 uniformed officers) numerous arrests of students, and large scale disruption of the normal educational process.

In the meantime the Petition for certiorari has been granted and the Opinion and Judgment of the Court of Appeals (actually three opinions, June 8, August 4 and August 28) are before this Court for review.

IV. Summary

The school system has been fully and affirmatively desegregated in every respect, except, it may be contended, student assignment. With regard to student assignment, the rural part of the system and the urban or city part of the system west of Interstate Highway 65 have been fully and affirmatively desegregated as a result of the implementation in September, 1969, of the plan of student assignment devised by the District Court, approved by the Court of Appeals, en banc (Singleton v. Jackson, 419 F.2d 1211) and reviewed by this court on certiorari (Carter v. West Feliciana Parish School Board, 396 U.S. 290, per currium, 1970). The method of student assignment used in each of these areas is unitary attendance zones drawn by the court itself.

Thus we can define the essential point at issue as relating only to the element of student assignment for that part of the urban or city portion of the system located east of Interstate Highway 65.

On June 8, 1970, the Court of Appeals, on the appeal from the District Court order of January 31, 1970, entered the first of the three combined opinions now before this court for review. This opinion and judgment concerned primarily student assignment for these schools east of Interstate Highway 65 and set out a complete and specific plan of student assignment for these schools. This plan set out by the Court of Appeals is one that had been submitted to the Court by the United States Department of Justice, which had in turn prepared the plan by modifying a plan originally devised by the Office of Education of the Department of Health, Education and Welfare. As with the remainder of the system, the method of student assignment used by this plan is unitary zones. This plan also closed some schools, consolidated others, paired others, recast the grade structure of others and completely redesigned all of the attendance zones east of Interstate Highway 65. Under this plan, all of the forty-one schools affected by the order lying east of Interstate Highway 65 became thoroughly bi-racial in student body composition, except eight elementary schools.[52]

The subsequent order of the District Court on July 13 eliminated two more of the remaining all black schools, one by closing, and one by redesigning attendance zones, leaving only six.[53] Thereafter, the Court of Appeals in its order of August 4, 1970 (the second of the three orders now on review) eliminated yet another all black school by assigning, through pairing, 129 white students to theretofore all black Robbins Elementary School.

At that point, the five schools remaining all black, as classified by the court, were:

Name	White	Black
Owens	2	1,300
Fonville	37	787
Stanton Road	5	826
Brazier	0	1,120
Grant	30	850

All of these schools are located more or less in the middle of fairly densely populated residential areas that have, for the most part since the inception of this litigation, become either all black or very predominantly black in character. Two, Owens in the City of Mobile and Grant in the City of Prichard, are in areas that are totally urban and most of the housing is in the form of Federally funded urban renewal projects, subject to the Federal Open Housing Laws. The other three, Fonville, Stanton Road and Brazier, are located in areas of a suburban nature. Two of these areas, Fonville and Stanton Road, were, at the beginning of this litigation, all white in character but have now become very predominantly black. The racial makeup of all five of these zones and schools results entirely from voluntary residential patterns, and is thus the result of a pure *defacto* situation, rather than any practice of maintaining segregated schools by law, by design or by any other device (see *Deal* v. *Cincinnati Board of Education*, 419 F. 2d 1387).

On August 28, in the final of the three orders being reviewed, the Court of Appeals further increased the statistical extent of integration by redesigning two elementary school zones and by pairing four more elementary schools.

With the opening of the 1970–71 school year on September 9, 1970, the plan of student assignment placed into operation, as ordered by the court, produced the following assignment of students and faculty for the area concerned, the schools east of Interstate Highway 65.

Name of school	Racial character of school in dual system era	Current (1970–71) racial character of student body	1970–71 students assigned		1970–71 faculty assigned [1]	
			Black	White	Black	White
Bienville	White	Biracial [2]				
Blount	Black	do	1,233	1,041	36	41 (12)
Brazier		Black	1,006		14	17 (3)
Brookley	White	Biracial	71	490	7	10 (1)
Caldwell	Black	do	307	11	6(½)	3½(6½)
Carver	do	do				
Central	do	do	1,563	231	24	27 (8)
Chickasaw	White	do	75	448	6	8 (2)
Clark	do	do	903	687	23 (1)	34 (2)
Council	Black	do	404	50	6 (1)	8
Craighead	White	do	516	242	11	16 (1)
Crichton	do	do	144	352	7½	11 (1)
Dunbar	Black	do	940	86	14	13 (9)
Eanes	White	do	181	823	13 (3)	23
Evans	do	do	118	91	8	8
Fonville	Black	do	866	15	13	9 (11)
Glendale	White	do	574	257	10	14 (2)
Grant	Black	do	1,077	7	16	9 (15)
Hall	do	do	852	190	18	23 (4)
Hamilton	White	do	204	414	7	11
Leinkauf	do	do	252	194	6	8
Maryvale	do	do	207	395	8	12
Mertz	do	White		373	4	7
Mobile County Training	Black	Biracial	699	202	14	8 (12)
Morningside	White	White		674	8	11 (1)
Murphy	do	Biracial	1,546	1,054	31 (7)	58
Old Shell	do	do	357	117	5	6 (1)
Owens	Black	Black	1,479		20	13 (17)
Palmer (Snug Harbor)	White	Biracial	493	104	10	5 (9)
Phillips	do	do	820	364	18 (1)	28
Prichard	do	do	566	187	12 (1)	19
Rain	do	do	111	1,155	23	35
Robbins	do	do	702	129	9 (1)	12 (2)
Stanton Road	Black	do	894	4	13	17 (2)
Toulminville	White	do	454	247	12	14 (3)
Trinity Gardens	Black	do	969	171	15	17 (6)
Vigor	White	do	1,385	930	36 (6)	60 (3)
Washington	Black	do	780	636	14	11 (11)
Westlawn	White	White		322	4 (1)	7
Whitley	Black	Biracial	345	127	6	7 (3)
Williams	White	do	41	533	8	11
Williamson	Black	do	570	594	18	25 (2)
Woodcock	White	do	97	145	5 (2)	10½

[1] The figures in parenthesis indicate the number of vacancies, by race, yet to be filled in order to reach the 60/40 ratio.

[2] By Court order Bienville has become a part of the Vigor High School Complex, which has an assigned enrollment of 1,385 black, 985 white.

[3] By Court order Carver has become a part of the Blount High School Complex, which has an assigned enrollment of 1,233 black, 1,041 white.

We would redirect your attention to the statistical table set out in an earlier section of this brief (page 7) for a view of the assignment of students for the whole system produced by the total desegregation plan placed in full implementation with the opening of school on September 9, 1970.

V. Petitioners' contentions

Over the past eight years all of the normal techniques of desegregation ever devised — — the option plan, unitary zones, freedom of choice, majority to minority transfers, zones drawn on a non-racial basis, zones drawn on a racial basis, alteration of grade structure, enlargement of zones, reduction of zones, consolidations, closings, pairing of adjacent schools — — have been imposed upon the Mobile County Public School System. Some of these techniques are educationally sound some of them not.

From the standpoint of education the results are totally ungratifying. From the standpoint of desegregation, it is now abundantly clear that this school system is desegregated to the maximum extent that can be produced by normal techniques and any further rearrangement of the school system by such abnormal devices as massive bussing, cross-bussing, non-contiguous pairing, or any other arbitrary manipulation of students, can only be the pursuit of an arbitrary and artificial racial balance. And this is exactly what Petitioner now seeks.

As we understand the thrust of Petitioners contention, it is that despite the fact that total desegregation has been achieved, and despite the fact that this is a unitary school

Footnotes at end of article.

system, further abnormal devices in pursuit of a racial balance are justified, because:

(a) The District Court has not had evidentiary hearings;

(b) there have been ex parte proceedings with the Court;

(c) the School Board has used certain techniques such as bussing black children, changing grade structure, portable classrooms, building and closing schools and manipulation of attendance zones, to maintain segregation.

We would rejoin these contentions briefly.

(a) Evidentiary Hearings

The District Court held exhaustive evidentiary hearings in 1963, 1965, 1967 and 1968. If anyone has been handicapped for lack of an evidentiary hearing since the July 1968 hearing, it has been the School Board, not petitioner. Without giving the Board the opportunity to offer proof of the soundness of the several proposed plans of student assignment it has filed in the district court since July 1968, the court has on each occasion rejected the Board's proposals entirely, in favor of plans devised by HEW, the Department of Justice and the Court itself, which have not had to stand the test of an open hearing. When this case was remanded by this Court in January 1970, (Carter v. West Feliciana Parish School Board, (supra) the School Board not Petitioner, urging that there be an evidentiary hearing and was ignored.[54] As we have pointed out in an earlier section of this brief (pages 24, 33–34) petitioner's complaints are all after the fact and it is obvious that Petitioner is not so much interested in having evidentiary hearings, as it is in complaining for lack of such hearings.

(b) Exparte Proceedings

Certainly there have been exparte proceedings, by counsel for all of the parties. In an earlier part of this brief (page 39) we freely admitted the mistake of this counsel in responding to the District Judge's oral request for information, without reducing our response to writing and sending copies to the other parties. No later than Wednesday, September 23, 1970, while this brief was in preparation we had another exparte request for information from one Jerris Leonard, Esq., Chief of the Civil Rights Division of the United States Department of Justice. In a complex case such as this, it seems that exparte activity is inevitable. Nor do school board attorneys have a corner on the market. We have reference to:

(1) Petitioners exparte conference with the District Court in March 1970.[55]

(2) The Justice Department's exparte hearing before the district court on September 14, 1970.[56]

(3) Petitioners' failure to serve all parties with copies of important pleadings, and the making of false certification of service.[57]

(4) The Justice Department's exparte submission of documentary material, not a part of the record, to the Court of Appeals.[58]

(5) The Court of Appeals failure to notify all parties and counsel of hearings in chambers as a result of which the Mobile County Council PTA, one of the parties, was not present at a most important conference in the Chambers of Judge Bell on August 24, 1970.[59]

We do not complain of these occurrences. We simply note them, lest the impression be left that the School Board alone is at fault.

(c) Techniques To Maintain Segregation

Closing schools: Contrary to Petitioners implication, every school closing in the last five years has resulted in an increase in the extent of desegregation, rather than a decrease. We would refer you to the full discussion at pages 30–33 of this brief.

Footnotes at end of article.

School Construction: The last new schools constructed in the system opened their doors in 1967 (two) and 1968 (one). All three have bi-racial student bodies (see page 15 of this brief). Two proposed construction projects in 1968–69 were approved by the District Court and reversed by the Court of Appeals. One has now been abandoned and the other has an assigned enrollment of 454 black and 247 white (see page 15 of this brief).

Manipulating Attendance Zones and Portable Classrooms: Since 1965 all students have been assigned to schools on the basis of zones either approved by the court or drawn by the court, excepting a brief period of freedom of choice (see pages 22–41 of this brief). Portable classrooms are used only to provide emergency space to accommodate overloads resulting from the assignment of students by the court (see pages 17–18 of this brief).

Changing Grade Structure: Unquestionably this school system has had a varied grade structure. Initially this resulted in part because of its combination rural-urban character, and in part because of the continuing effort to shift from the old style elementary, junior high, senior high concept (elementary grades 1-6, junior high grades 7-9, senior high grades 10-12) to the more modern middle school concept (elementary grades 1-5, middle school grades 6–8, senior high grades 9-12). In more recent times the varied grade structure has resulted from the court orders which have imposed upon the system a number of grade structure arrangements thought to be educationally unsound; such as a school for grades 6-9, or a school for grades 1, 2, 3 and 5, or a school serving grade 8 only (as proposed by HEW), or a school serving grades 1 and 2 only or 5 and 6 only (as contained in Plan B–1 Alternative proposed by Petitioner, pendente lite).

Bussing of Black Students: Admittedly, during the era of the dual system and until a short time after this litigation began, black students were bussed to preserve segregation. This is a shameful part of the past of this system, just as slavery is a shameful part of this nation's past. It was wrong then, it is wrong now; and two wrongs never made a right. It was educationally unsound then, it is educationally unsound now. Those who would attempt to justify bussing now, on the basis of bussing in the past, are seriously hampered by their own obvious inability to determine whether they are more interested in education or retribution and revenge. Petitioner cites to the court impressive figures to indicate the existence of substantial bussing now. The court must bear in mind, as Petitioner failed to note, that all of this bussing is in the rural portion of the system where there has always been and probably always will be a substantial transportation need to fill. The mere existence of transportation in the rural part of the system hardly stands as justification for the creation of an urban transportation system. Transportation in the rural portion of the system is of course on a fully integrated basis (see pages 11–12 of this brief).

VI. The relief that is needed

The desegregation plan now in implementation, insofar as it concerns the schools east of Interstate Highway 65, is a piecemeal concoction put together by the Court of Appeals from various bits and pieces devised at various times by HEW, the Justice Department and the District Court. It has no integrity, nor rationality.

While the Court of Appeals spoke in terms of devising a plan consisting of neighborhood schools, and Petitioner has seized upon this as a vehicle to place before this court a consideration of the constitutionality of the neighborhood school concept, the plan devised and promulgated by the Court of Appeals is anything but a neighborhood school plan. To immediately verify this, one need only look at the map reflecting the elementary and junior high school zones devised by the court and now in use (the maps filed in the District Court on July 30 and July 13, 1970, respectively).

Based upon these zones, sixth grade students in the Mertz elementary zone for example are required to travel up to seven (7) miles diagonally across the City of Mobile, crossing six major traffic thoroughfares — — U.S. Highway 90, Cottage Hill Road, Airport Boulevard, Dauphin Street, Old Shell Road and Springhill Avenue (U.S. Highway 98) — — at peak traffic hours to attend a school that has an overload of almost 600 students (capacity 986, assigned enrollment 1525); while their true neighborhood school, Mertz Elementary School is within easy walking distance of less than a mile and a half and has vacant space. There are many other similar examples, but this should suffice to illustrate the point that the plan devised and promulgated by the court is not a neighborhood school plan, notwithstanding the court's characterization of it as such.

The school year traditionally opens in September each year. Normally, planning for each year would commence the preceding April or May. For the past five years it has been impossible to undertake any real preplanning because of last minute court orders requiring substantial rearrangement of the school system in one way or another, such as a shift from neighborhood attendance zones to complete freedom of choice and then back again, or a substantial rearrangement of attendance zones and grade structure. Court orders requiring new and different desegregation plans were imposed upon this school system on August 16, 1966 for the 1966–67 school year; August 24, 1967 for the 1967–68 school year; July 29 and August 2, 1968 for the 1968–69 school year; and on August 1, 1969 for the 1969–70 school year. The 1969–70 school year was further disrupted by a further court order on January 31, 1970 requiring mid-year reassignment of some 15,000 students. Since January 1, 1970 this school system has already been under six different court ordered desegregation plans, none of which have been prepared by the Board or its professional staff. Three of these plans have been fully implemented, and three superseded by subsequent orders before they could be placed into full implementation.

Since October 1967, the desegregation plans implemented in this school system have been devised either by the District Court, the Court of Appeals, the Justice Department, HEW, or some combination thereof. The School Board and its professional staff people have been completely shoved out of the picture, and the chaos prevalent in the school system at this time is the end result. Neither of these parties seems to be able to satisfy the other, and the petitioner has never been satisfied with anything. As a result, the school system has become nothing more than a bloody corpse battered from pillar to post now lying there oozing its life's blood away while being carved and hacked to bits by its various antagonists. The death knell of utter chaos and collapse can be heard pealing softly in the distance, moving closer day by day.

The litigating parties in this case are the NAACP, and the School Board. It is not they, however, who are suffering from the seemingly interminable turmoil that the courts have unwittingly created; it is the public school children of Mobile County, black and white alike. Nothing speaks more eloquently of this than the following statistical table comparing the advance of the desegregation process year by year since 1965 when substantial integration first occurred, to the achievement of fourth grade students systemwide on the nationally recognized California Battery Achievement Test.

	1965–66	1966–67	1967–68	1968–69	1969–70	1970–71
Total number of schools	97	98	96	91	89	
Total number of schools with a biracial student body	10	15	34	57	68	
Total number of schools with a biracial faculty	0	0	10	89	88	
Total number of students enrolled in biracial schools	10,474	15,636	28,558	47,560	55,314	
Systemwide achievement level (4th grade students) California battery scores as compared to grade placement (in percent—grade placement equals 100 percent)	104.4	100	99	91.5	89.7	(1)

[1] Not yet compiled.

In the table, grade placement equals 100%. Note that in the 1965–66 school year fourth grade students system-wide were achieving at a level 4.4% above fourth grade standards. Since that time there has been a steady downward trend, so that by last school year, 1969–70, fourth grade students system-wide were achieving at a level 10.3% below fourth grade standards. The tests have not yet been given for the current school year, but the results are predictable.

We urge this Court to breathe the breath of life back into this dying school system. We urge this Court to direct the Court of Appeals to remand this case to the District Court for the formulation of a revised plan of desegregation for that part of the urban portion of the school system lying east of Interstate Highway 65; that the District Court be directed to:

1. Require the School Board to prepare and submit a proposed plan to the court;

2. Receive and consider any objections or modifications to the School Board's proposed plan, that any party to this case may wish to file;

3. Have an evidentiary hearing;

4. Approve a new plan by January 1, 1971 for implementation beginning the second semester of this school year, in February 1971.

We further urge that the District Court be directed to undertake the above in the light of certain principles that we shall propose at the conclusion of this brief.

SUMMARY OF ARGUMENT

The Mobile County Public School System was at one time a dual school system. The dual system has now been completely disestablished, and the Mobile County Public School System is now a fully integrated unitary school system.

The school system has been involved in desegregation litigation since 1963. This has resulted in a succession of orders by the District Court and the Court of Appeals, each requiring some further or different modification in the plan of desegregation being implemented in the school system. The School Board and its professional staff have sought in good faith to implement, properly and promptly, each order of the Court as it has been imposed; and to otherwise discharge their legal and constitutional obligation, as it has from time to time been interpreted and defined by the Courts.

Since October 1967, the desegregation plans that have been implemented in the system have been devised by the District Court, the Justice Department, HEW, the Court of Appeals, or some combination thereof. The School Board and its professional staff have been completely shoved out of the picture. Since January 1, 1970 six different court ordered desegregation plans have been imposed upon the school system, none of them have been prepared by the Board or its professional staff. As a result, the school system is in a position of near chaos; faculty and staff morale is at low ebb; the Superintendent has resigned; enrollment has dwindled from 79,000 to approximately 68,000; system-wide student achievement has steadily declined for the past five years, taking a course essentially opposite the advance in the desegregation process during this same time period.

The Orders of the District Court and of the Court of Appeals now being implemented and now before this Court for review require: (a) the assignment of faculty throughout the system on the basis of a 60/40 racial ratio, (b) the assignment of students (in that part of the city or urban portion of the system *east* of Interstate Highway 65) to schools on the basis of what the Court of Appeals contends to be unitary geographic zones resulting in *neighborhood schools*. This is a totally inaccurate description of the content and effect of the court's orders. True, the zones are unitary, but they do not comport with the neighborhood school concept and do not result in neighborhood schools, due to gross gerrymandering, unnatural pairing of schools, and obvious inattention to numerous factors that would have been considered in the creation of a true system of neighborhood schools. Essentially, assignment of students is on a basis calculated to produce an arbitrary racial balance of students in the schools concerned.

The orders of the court now in implementation result in the assignment of approximately 64,306 students (of a total of approximately 68,623 in the system) to schools with bi-racial student bodies. Nevertheless, Petitioners urge this court to reverse the orders of the lower courts, and pending the approval of a new desegregation plan by the District Court on remand, to order the implementation, pendente lite, of another plan of student assignment hastily prepared almost a year ago by HEW; which plan comes to this Court untested by hearing, unsupported by testimony and indeed totally unexplained.

It is the position of the respondent that the case should be remanded to the District Court for the development of a new plan of student assignment for that part of the system here concerned, consistent with the principles developed in the argument hereafter summarized. It is respondent's position in argument that:

I

The so-called plan B–I Alternative should not be imposed upon the Mobile County Public School System, because:

1. It has never been before any court for an evidentiary hearing; it is unproved, untested and unexplained.

2. On the other hand, upon the basis of the affidavit testimony of the Associate Superintendent who examined and analyzed it thoroughly, along with other members of the professional staff of the school system, it has been totally discredited.

3. It was hastily prepared by one with no knowledge of the school system. As a result it contains, in addition to a number of overall functional drawbacks, approximately a dozen specific functional impossibilities.

4. It has been rejected by the lower courts as impracticable and educationally unsound.

5. It requires massive cross-town busing and cross-busing, beyond the immediate, as well as long range, capabilities of the school system.

II

The Orders of the lower court, insofar as they require the assignment of faculty on the basis of a racial ratio (60% white, 40% black) are contrary to what is required or permitted by the Fourteenth Amendment to the United States Constitution.

III

The constitutional foundation of all public school desegregation is the Fourteenth Amendment to the United States Constitution. *Brown* v. *Board of Education of Topeka*, 347 U.S. 483 (1954), in interpreting the Fourteenth Amendment, defines the constitutional rights of all public school students, black and white. This right is that they shall not be denied access to and use of public school facilities on account of race. This original interpretation has been both expanded and refined in subsequent cases, including *Green* v. *County School Board of New Kent County Virginia*, 391 U.S. 430 (1968) and *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19 (1969), but it has not been changed nor abrogated, as indeed it could never be in view of the very language of the Fourteenth Amendment itself.

The Constitution of the United States neither requires nor permits the assignment of students in such a manner as to achieve a racial balance in the school system. Similarly, the mere existence in this school system of seven schools with uniracial student bodies (2 all black and 5 all white, out of a total of 83 schools in the system) does not make this school system constitutionally deficient.

Under our Constitution, education is a right that must be made available to all on an equal basis; where dual school systems once existed they must be totally disestablished; students both black and white must be assigned to schools on a non-racial basis; school systems must be operated on a unitary basis within the framework of which no person is totally compelled to attend any school because of race or color, nor effectively excluded from any school because of race or color.

IV

Under our Constitution black and white public school students have an equal right to the benefit and protection of the Constitution and of the laws of the United States. Granted that every individual desire cannot be fulfilled and every individual problem solved, by and large, a true neighborhood school system is the most beneficial method of student assignment for the school system and for all children of the system, black and white. Assignment of all students on the basis of attendance zones fairly drawn to normal standards of educational soundness and upon the basis of non-racial criteria in order to produce as nearly as possible a system of unitary neighborhood schools, is a constitutionally sufficient plan of student assignment.

FOOTNOTES

[1] The ratio was somewhat different during the 1969–70 school year owing to the disappearance of approximately 6,500 white students from the system, apparently as a result of their dissatisfaction with the School Board's implementation of the desegregation plans devised by the District Court and promulgated in its August 1, 1969 and January 31, 1970 Decrees. This year (1970–71) the disparity is even greater due to the loss of still more white students from the system.

[2] *Singleton* v. *Jackson Municipal Separate School District*, 419 F.2d 1211 (5th Circuit, en banc, December 1969); and *Ellis* v. *Board of Public Instruction of Orange County*, 423 F.2d 203. (5th Circuit, 1970).

[3] Findings of Fact, October 13, 1967, paragraph 23; and Faculty Report to the District Court, December 3, 1968 respectively.

[4] Findings of Fact, April 14, 1970, Attachment E . . . and Report to the District Court dated November 26, 1969, filed at the direction of the Court. . . . Every school except Dauphin Island, a one teacher school on an island in the Gulf of Mexico, reopened by Court order on January 31, 1970.

[5] Findings of Fact, April 14, 1970, pages 9–10, page 3 and Attachment A.

[6] Findings of Fact, October 13, 1967, paragraph 22 . . . and Findings of Fact, April 14, 1970, pages 14–15.

[7] Findings of Fact, April 14, 1970, pages 14–15.

[8] Findings of Fact, April 14, 1970, page 15.

[9] Findings of Fact, April 14, 1970, page 16.

[10] Findings of Fact, October 13, 1967, paragraph 22 . . . and . . . Findings of Fact, April 14, 1970, pages 16–18.

[11] Findings of Fact, October 13, 1967, paragraph 28 . . . and . . . Findings of Fact, April 14, 1970, page 17.

[12] Findings of Fact, April 14, 1970, pages 17–18 . . . and . . . Report to the Court, February 24, 1970.

[13] Orders of the District Court dated December 20, 1968 and March 14, 1969 approving the Board's construction plans for a new building at Howard Elementary School and an additional building at Toulminville High School were reversed by the Court of Appeals on June 3, 1969. As a result the School Board has suffered a financial loss of approximately a half million dollars (Brief of Appellees in Court of Appeals number 27,260 and 27,491, pages 6, 13 and 38, also from the transcript of testimony in those cases, Tr. pages 13–16, 29 and 124). Howard has now been abandoned, because of its substandard facilities. Toulminville continues to operate with an assigned student body of 454 black and 247 white.

[14] Findings of Fact, April 14, 1970, page 19, and Attachment A, . . . and . . . Statistical table attached to the Court of Appeals opinion of August 4, 1970.

[15] Findings of Fact, April 14, 1970, pages 10–22. All figures are shown as of the time the consolidation occurred.

[16] Findings of Fact, April 14, 1970, page 22.

[17] Findings of Fact, April 14, 1970, page 23.

[18] At the request of Petitioner, the Court has now appointed four more members to the committee, two black and two white.

[19] The enrollment at Hillsdale is now 228 black, 493 white.

[20] Davis v. Board of School Commissioners of Mobile County, 318 F. 2d 63; Davis v. Board of School Commissioners of Mobile County, 322 F. 2d 356.

[21] Davis v. Board of School Commissioners of Mobile County, 333 F. 2d 53.

[22] Brown v. Board of Education of Topeka, 349 U.S. 294 (1955).

[23] Davis v. Board of School Commissioners of Mobile County, 364 F. 2d 896.

[24] It is perhaps pertinent to observe here that although the litigation commenced in 1963 this was only the third evidentiary hearing. Petitioner complains long and loud in its brief over the lack of evidentiary hearings and yet these complaints are all after the fact. The inescapable conclusion is that Petitioner is not so much concerned with having an evidentiary hearing as it is for being in position to complain over lack of such a hearing.

[25] Davis v. Board of School Commissioners of Mobile County, 393 F. 2d 690 (693).

[26] Decree of the District Court, July 29, 1968 (page 3).

[27] Motion of the Justice Department filed on July 31, 1968, referred to by the Court in its Order of August 2, 1968 (page 4).

[28] Decree of the District Court, July 29, 1968 (page 8).

[29] Davis v. Board of School Commissioners of Mobile County, 414 F. 2d 609.

[30] Affidavit testimony of James A. McPherson, filed in the District Court on July 29, 1969 (pages 4 and 5).

[31] The affidavit of James A. McPherson, referred to in footnote 30, filed in the District Court on July 29, 1969.

[32] Although some 70,000 were assigned to bi-racial schools, only 55,314 enrolled and attended. The others moved their place of residence, entered private school, dropped out of school, or in some other manner, beyond the Board's control, avoided their bi-racial assignment.

[33] Brief of Petitioner (Appellant there) in the Court of Appeals on August 12, 1969 (pages 5–6).

[34] Brief of the Justice Department in the Court of Appeals on August 22, 1969 (page 6).

[35] Singleton v. Jackson Municipal Separate School District, 419 F.2d 1211.

[36] Carter v. West Feliciana Parish School Board, 396 U.S. 29 (1970).

[37] The HEW recommendations are discussed in full in a later section of this brief, at pages 60 et seq.

[38] Counsel's letter to the Judges of the Court of Appeals dated January 17, 1970, with proposed decree attached.

[39] Memorandum of the Justice Department filed in the Court of Appeals on January 17, 1970 and proposed decree filed by the Petitioner in the Court of Appeals (undated) in January 1970.

[40] Both dealing only with that part of the urban portion of the system east of Interstate Highway 65.

[41] Notwithstanding an order of the District Court dated January 28, 1970 noting that the Government submitted a revised plan at 9 a.m. on Tuesday, January 27, perusal of the court file and the docket entries make it clear that nothing was filed of record. Nor were copies furnished counsel.

[42] Response to Order filed by the Board in the District Court on January 30, 1970.

[43] Refer to the School Board's Report to the Court dated February 23 and filed in the District Court on February 24, 1970.

[44] David v. Board of School Commissioners of Mobile County, 422 F. 2d 1139 (1970). For no apparent reason, and we think inadvertently without realizing it, the Court of Appeals also changed a number of zone lines in the WESTERN part of the urban portion of the system which had no effect whatsoever from the standpoint of desegregation, but very badly overcrowded some schools and left others under utilized. These mistakes were subsequently corrected by the District court in its orders of July 13 and 30, 1970.

[45] See:

(1) Objection To A Portion Of The Record, filed by the School Board in the District Court on March 28, 1970.

(2) Objection To Attempt To Informally Place Unauthenticated Documentary Material Into The Record In The Court of Appeals and Motion To Strike And Expunge, filed in the Court of Appeals by the School Board on March 28, 1970.

(3) Petition For Rehearing, filed in the Court of Appeals on June 24, 1970 (mistakenly dated May 28, 1970).

[46] The School Board nor its counsel have knowledge of why the District Court took this action. We assume, that the District Court, faced with the task of overseeing and enforcing the operation of a desegregation plan that was simply impossible of effective implementation (due to the lack of knowledge, and expertise of its authors, its gross statistical inaccuracy and other purely functional impossibilities) concluded that someone had to do something other than sit by and watch the school system blow apart. We had pointed out a number of these problems in our Petition for Rehearing, a copy of which had been mailed to the District Court at the time of filing.

[47] Response to Motion, filed in the Court of Appeals on July 28, 1970.

[48] On this occasion the School Board had knowledge that the District Court contemplated some modification of its zones, to remove the mistakes (referred to in footnote 44) in several zones in the western part of the urban portion of the system, which had not been cured by its Order of July 13. To this end, the School Board, when called upon to do so, responded and advised the District Court, of the nature and location of these mistakes. Our mistake (the mistake of counsel; which we freely admit) was that in responding to the request of the District Court for information, we did not reduce our response to writing and send copies to opposing counsel.

[49] Singleton v. Jackson Municipal Separate School District, 419 F.2d 1211.

[50] Petition for Rehearing and For Stay, filed by the interventor, Mobile County County PTA, on September 4, 1970; denied on September 18, 1970.

[51] The Court did entertain and permit the presence of an incidental party defendant to the litigation, one David Jacobs, a black militant who has twice been arrested and convicted in connection with activities in leading disruptions at two schools in the system (once in the Prichard, Alabama Police Court and once in the Mobile Police Court) and who on May 16, 1969 was enjoined by the District Court from obstructing and preventing the attendance of students and faculty members by intimidation and other activities. Mr. Jacobs accompanied Petitioners counsel to this conference. We were not advised by the court of the reason for his presence.

[52] A statistical table of the number of black and white students assigned to each school by this plan was included by the Court of Appeals in its Opinion, which is a part of the printed Appendix.

[53] The Court of Appeals in its August 4, Opinion said seven, counting Council with 40 white and 427 black students as all black. A copy of the statistical table filed in the record by the District Court in connection with its July 13 Order, is attached to this brief as Appendix II.

[54] See:

(1) Letter of this Counsel to the Court of Appeals, dated January 17, 1970 and proposed decree attached,

(2) Memorandum of the Justice Department filed in the Court of Appeals, January 17, 1970,

(3) Proposed decree filed by Petitioner in the Court of Appeals (undated) in January, 1970.

[55] As referred to in Petitioner's own Motion For Injunction Pending Appeal, filed in the Court of Appeals in March 1970. See School Board's Opposition to the Motion For Injunction, pages 3 and 4 and footnote 1.

[56] See: School Board's Report To The Court, September 16, 1970.

[57] Petitioner's Motion For Summary Reversal filed in the Court of Appeals on August 17, 1970 was not served on all parties. See: Petition of the Mobile County Council of Parent-Teacher Associations (one of the parties) for Rehearing and a Stay of the Court of Appeals Order of August 28, 1970 which resulted from the ex parte hearing on the motion for summary reversal (pages 5–6), filed in the Court of Appeals on September 4, 1970.

[58] See:

(1) School Board's Petition For Rehearing, filed in the Court of Appeals on June 24, 1970.

(2) School Board's Objection To and Motion To Strike and Expunge filed in the Court of Appeals on March 28, 1970.

(3) School Board's Objection to a portion of the record, filed in the District Court on March 28, 1970.

[59] See: Petition of PTA Council for Rehearing and For Stay filed in the Court of Appeals on September 4, 1970.

PERSONAL EXPLANATION

Mr. PREYER of North Carolina. Mr. Speaker, last Thursday I was present during the debate on the Defense appropriation bill and voted on the amendments. However, on the final rollcall vote,

rollcall 338, I was unable to be present because of a longstanding commitment in my district. Had I been present I would have voted "aye."

The SPEAKER. The gentleman's statement will appear in the RECORD.

IN SUPPORT OF THE AGREEMENT OF FRIENDSHIP AND COOPERATION WITH SPAIN, AND SPANISH MEMBERSHIP IN NATO

The SPEAKER. Under a previous order of the House the gentleman from Florida (Mr. SIKES) is recognized for 10 minutes.

Mr. SIKES. Mr. Speaker, I personally welcome the successful conclusion of our negotiations with Spain over the renewal of our Defense Agreement of 1953. The Agreement of Friendship and Cooperation, signed on August 6, assures the United States of a continued military presence in Spain for the next 5 years, and establishes closer links between Spain and NATO.

President Nixon's recent trip to Western Europe and visit to the 6th Fleet underscored our determination to maintain an effective presence in the Mediterranean in the wake of increased Soviet power in the area. Spain, by virtue of its geographic location, commands our approach to the Mediterranean, and the availability of air and naval facilities on Spanish soil enables us to fulfill this task more readily, a task which is vital to the security of the United States and Western Europe as a whole.

Indeed, our bases in Spain are essential to our ability to maintain a strong posture in the Mediterranean. Rota is the largest U.S. naval base in Europe. It provides logistic support to our fleet more efficiently and at cheaper cost than could be done from Norfolk. It is used as a home port for a submarine tender serving Polaris-equipped nuclear submarines. It supports antisubmarine warfare units operating as far east as Crete. Rota-based planes deliver supply replacement to NATO bases in the central and eastern Mediterranean area and to the decks of American aircraft carriers.

The air bases, although they no longer are used for strategic bombers, have not become obsolete. On the contrary: the loss of our bases in Morocco and in Libya has enhanced the importance of the Spanish bases. The location of these bases provides us with favorable terrain and good weather conditions suitable for necessary aerial weapons training and gunnery practice. Air units in Spain are also capable of providing the 6th Fleet with air support.

Objections of an economic and political nature have been raised against the new agreement. It has been said that the economic cost of leasing the bases has been too high, that since 1953 we have granted Spain close to $1.3 billion in military and economic aid. Yet this sum, although considerable, has not been as high as our aid to some NATO allies, say France, for example, under the Marshall plan. Furthermore, the cost of dismantling our overseas installations and relocating men and equipment elsewhere, would probably prove more expensive than retaining those we already have. It is also less expensive to service our submarines in Rota than on the eastern coast of the United States.

The agreement is sound for political reasons as well. It reinforces Spanish determination to remain in the Western camp. Failure to renew the agreement would most certainly have encouraged those in Spain who advocate a more neutralist stance for their country, and would have made Spain more vulnerable to Russian bids for closer ties. Such a course would only lead to an upset in the present political and military equilibrium in southern Europe and the Mediterranean, much to our and NATO's detriment.

The contention that the agreement extends our commitments abroad is not valid. We are already committed to the defense of Western Europe under the North Atlantic Treaty, and Spain, as we can see on any map, is an integral and pivotal part of Western Europe, the Mediterranean, and the North Atlantic areas. The security of NATO members is linked to the security of Spain and vice versa, by geographical necessity. This fact has been recognized by the United States since the mid-1950's. In 1957, a House concurrent resolution, expressing the sense of the Congress that efforts should be made to invite Spain to membership in the North Atlantic Treaty was passed by the House and the Senate unanimously. This position has remained constant through successive administrations and has been reiterated recently by Secretary of Defense Laird, among others.

Spanish membership in NATO would allow for closer and more efficient coordination and cooperation among members of NATO's exposed southern flank. In addition, Spain's military potential in peacetime is quite substantial: there are 280,000 men in the armed forces, and Spain could expand this number considerably in wartime. This contribution would have an important impact on NATO defense planning. It would enhance the credibility and practicality of NATO's overall strategy of "flexible response" which is, after all, based on large conventional forces.

Mr. Speaker, for those of us committed to the principle of collective security, Spanish membership in NATO is a logical and necessary step. I commend the signature of the Agreement of Friendship and Cooperation with Spain as a step in the right direction.

U.S. SUPREME COURT RECEIVED PETITIONS FROM CORAL SPRINGS, FLA.

The SPEAKER. Under a previous order of the House the gentleman from Florida (Mr. ROGERS) is recognized for 5 minutes.

Mr. ROGERS of Florida. Mr. Speaker, the U.S. Supreme Court convened today to begin hearing arguments on a number of cases involving the forced busing of students to achieve racial balance in public schools and to consider a workable definition of a "unitary school system."

These issues, and others relating to the means by which school desegregation is to be achieved in the United States, have been the concern of thousands of parents in many parts of this Nation.

One group which has positively and graphically expressed its concern over this situation is the citizens of Coral Springs, Broward County, Fla.

Four citizens from that community spearheaded a drive to collect letters and petitions addressed to U.S. Supreme Court Justices, Members of Congress, the Attorney General, and other public officials and then delivered those letters, almost 50,000 of them, to Washington.

On Friday, October 9, I met with Mr. Ed Heafy, Mrs. Douglas Nolan, Mrs. Charles Tisdale, and Mrs. Alice Varvoutis and commended them for their constructive effort to appraise the Court of the concern of the parents of Broward County over the issue of forced busing.

After our meeting, these citizens went to the U.S. Supreme Court Building to personally deliver more than 20,000 letters to the Justices.

I have joined with other Members of the House in urging the Supreme Court to uphold the anti-forced-busing provisions of the 1964 Civil Rights Act and I might point out that the Congress, in the fiscal year 1971 Office of Education appropriation bill, included language, which I supported, to prohibit the use of Federal funds to force busing or the closing of schools to achieve racial balance.

I am hopeful that the Court as it begins its hearings today on these critical issues affecting the Nation's educational system will consider the views and concern of the citizens of Coral Springs and Broward County, Fla., and I again commend the citizens of that area of Florida for making their thoughts known in such a positive manner.

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. MICHEL, today, for 10 minutes, to revise and extend his remarks and to include extraneous matter.

(The following Member (at the request of Mr. CAMP) and to revise and extend his remarks and include extraneous matter:)

Mr. COUGHLIN, for 15 minutes, today.

(The following Members (at the request of Mr. MATSUNAGA) and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. THOMPSON of New Jersey, for 30 minutes, today.

Mr. RODINO, for 15 minutes, today.

Mr. EDWARDS of Alabama, for 1 hour, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. MONTGOMERY) and to revise and extend their remarks and include therein extraneous matter:)

Mr. SIKES, for 10 minutes, today.

Mr. ROGERS of Florida, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDWARDS of Alabama and to include extraneous matter in his special order of today.

(The following Members (at the request of Mr. CAMP) and to include extraneous matter:)

Mr. CHAMBERLAIN.
Mr. COUGHLIN in four instances.
Mr. QUILLEN in four instances.
Mr. BOW in two instances.
Mr. HUTCHINSON in two instances.
Mr. SCHERLE in 10 instances.
Mr. WEICKER.
Mr. MESKILL.
Mr. JOHNSON of Pennsylvania.
Mr. CÓRDOVA in two instances.
Mr. SCHMITZ in two instances.
Mr. SCHWENGEL in two instances.
Mr. EDWARDS of Alabama.

(The following Members (at the request of Mr. MATSUNAGA) and to include extraneous matter:)

Mr. ROONEY of New York in two instances.
Mr. ANNUNZIO.
Mr. DONOHUE in two instances.
Mr. BLATNIK.
Mr. COHELAN.
Mr. RODINO in two instances.
Mr. RYAN in three instances.

(The following Members (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. ROGERS of Florida in five instances.
Mr. WILLIAM D. FORD in two instances.
Mr. HUNGATE in two instances.
Mr. FLOWERS in two instances.
Mr. EDWARDS of California in three instances.
Mr. ANDERSON of California in two instances.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 233. An act to increase the authorization for the appropriation of funds to complete the International Peace Garden, N. Dak.; to the Committee on Interior and Insular Affairs.

S. 642. An act to make it a Federal offense to assassinate, kidnap, or assault a Member of Congress or a Member-of-Congress-elect; to the Committee on the Judiciary.

S. 988. An act to amend the Railroad Retirement Act of 1937 so as to permit certain individuals retiring thereunder to receive their annuities while serving as an elected public official; to the Committee on Interstate and Foreign Commerce.

S. 2896. An act to prohibit unauthorized entry into any building or the grounds thereof where the President is or may be temporarily residing, and for other purposes; to the Committee on the Judiciary.

S. 3132. An act to amend section 3731 of title 18, United States Code, relating to appeals by the United States in criminal cases; to the Committee on the Judiciary.

S. 3650. An act to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto and for other purposes; to the Committee on the Judiciary.

S. 4432. An act to revise and restate certain functions and duties of the Comptroller General of the United States; to change the name of the General Accounting Office to "Office of the Comptroller General of the United States," and for other purposes; to the Committee on Government Operations.

S.J. Res. 211. Joint resolution to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission; to the Committee on Foreign Affairs.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9654. An act to authorize subsistence, without charge, to certain air evacuation patients;

H.R. 11876. An act to amend section 1482 of title 10, United States Code, to authorize the payment of certain expenses incident to the death of members of the armed forces in which no remains are recovered;

H.R. 12870. An act to provide for the establishment of the King Range National Conservation Area in the State of California;

H.R. 13519. An act to declare that the United States holds 19.57 acres of land, more or less, in trust for the Yankton Sioux Tribe;

H.R. 14322. An act to amend section 405 of title 37, United States Code, relating to cost-of-living allowances for members of the uniformed services on duty outside the United States or in Hawaii or Alaska;

H.R. 15112. An act to repeal several obsolete sections of title 10, United States Code, and section 208 of title 37, United States Code;

H.R. 15424. An act to amend the Merchant Marine Act, 1936.

H.R. 15624. An act to convey certain federally owned land to the Cherokee Tribes of Oklahoma;

H.R. 16732. An act to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status; and

H.R. 16997. An act for the relief of Colie Lance Johnson, Jr.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1461. An act to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense to criminal cases in the courts of the United States;

S. 1708. An act to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes;

S. 2916. An act to establish the Plymouth-Provincetown Celebration Commission;

S. 3014. An act to designate certain lands as wilderness; and

S. 3529. An act for the relief of Johnny Mason, Jr. (Johnny Trinidad Mason, Jr.).

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on October 9, 1970, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 140. An act to authorize the establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes;

H.R. 2043. An act for the relief of Keum Ja Franks;

H.R. 4172. An act to authorize the Secretary of the Interior to provide financial assistance for development and operation costs of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes;

H.R. 9548. An act to amend section 15–503 of the District of Columbia Code with respect to exemptions from attachment and certain other process in the case of persons not residing in the District of Columbia.

H.R. 10837. An act to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926;

H.R. 12960. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Co.

H.R. 13125. An act to amend section 11 of the act approved February 22, 1889 (25 Stat. 676), as amended by the act of May 7, 1932 (47 Stat. 150), and as amended by the act of April 13, 1948 (62 Stat. 170), relating to the admission to the Union of the States of North Dakota, South Dakota, Montana, and Washington, and for other purposes;

H.R. 14685. An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes;

H.R. 15012. An act to authorize a study of the feasibility and desirability of establishing a unit of the national park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes;

H.R. 17575. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1971, and for other purposes;

H.R. 18410. An act to establish the Fort Point National Historic Site in San Francisco, Calif., and for other purposes;

H.R. 18776. An act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes; and

H.J. Res. 1396. A joint resolution to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971.

ADJOURNMENT

Mr. DANIEL of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 13, 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:

2451. A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a report of an overobligation in an Atomic

Energy Commission allotment account, pursuant to section 3679 of the Revised Statutes, as amended; to the Committee on Appropriations.

2452. A letter from the Director of Civil Defense, Department of the Army, transmitting the report on property acquisitions of emergency supplies and equipment for the quarter ended September 30, 1970, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

2453. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated May 12, 1970, submitting a report, together with accompanying papers and illustrations, on Delaware Bay-Chesapeake Bay Waterway in Delaware, Maryland, and Virginia requested by four resolutions of the Committee on Public Works, U.S. Senate, adopted July 6, 1955, March 14, 1957, June 30, 1960, and August 25, 1966, and one by the Committee on Public Works, House of Representatives, adopted June 30, 1960. It is also in partial response to the River and Harbor Act approved July 3, 1958 (H. Doc. 91–400); to the Committee on Public Works and ordered to be printed with illustrations.

2454. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated June 19, 1970, submitting a report, together with accompanying papers and illustrations, on Tampa Harbor, Fla., requested by two resolutions of the Committee on Public Works, U.S. Senate, adopted January 18, 1957, and May 4, 1962, and three resolutions of the Committee on Public Works, House of Representatives, adopted April 9, 1957, June 19, 1963, and June 23, 1964 (H. Doc. 91–401); to the Committee on Public Works and ordered to be printed with illustrations.

2455. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated May 14, 1970, submitting a report, together with accompanying papers and an illustration, on Geneva-on-the-Lake, Ohio, in partial response to authorizations contained in the River and Harbor Act approved March 2, 1945. (H. Doc. 402); to the Committee on Public Works and ordered to be printed with an illustration.

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:

[*Pursuant to the order of the House on Oct. 7, 1970, the following conference report was filed on Oct. 9, 1970*]

Mr. RIVERS: Committee of conference. Conference report on H.R. 17604 (Rept. No. 91–1593). Ordered to be printed.

[*Pursuant to the order of the House on Oct. 8, 1970, the following conference report was filed on Oct. 9, 1970*]

Mr. POAGE: Committee of conference. Conference report on H.R. 18546 (Rept. No. 91–1594). Ordered to be printed.

[*Submitted Oct. 12, 1970*]

Mr. DAWSON: Committee on Government Operations. The Port Situation in Vietnam (Following investigation) (Rept. No. 91–1595). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 18782. A bill to reorganize the government of the District of Columbia by establishing a Council of the District of Columbia to replace the Commissioner of the District of Columbia and the District of Columbia Council, and for other purposes (Rept. No. 91–1596). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. S. 2543. An act to prohibit the movement in interstate or foreign commerce of horses which are "sored", and for other purposes; with amendments (Rept. No. 91–1597). 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. ABBITT:

H.R. 19676. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct certain expenses paid by him for special education furnished to a child or other minor dependent who is physically or mentally handicapped; to the Committee on Ways and Means.

By Mr. MACGREGOR:

H.R. 19677. A bill to provide a penalty for unlawful assault upon policemen, firemen, and other law enforcement personnel, and for other purposes; to the Committee on the Judiciary.

By Mr. MELCHER:

H.R. 19678. A bill to amend the Packers and Stockyards Act, as amended, so as to provide for specifications for trimming carcasses in purchases of livestock on a carcass weight basis, and for other purposes; to the Committee on Agriculture.

H.R. 19679. A bill to authorize the Secretary of Agriculture to provide for the inspection of facilities used in the harvesting and processing of fish and fishery products for commercial purposes, for the inspection of fish and fishery products, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MONAGAN:

H.R. 19680. A bill to direct the Secretary of Health, Education, and Welfare to establish and carry out a bottled drinking water control program; to the Committee on Interstate and Foreign Commerce.

By Mr. RYAN:

H.R. 19681. A bill; National Public Employee Relations Act; to the Committee on Education and Labor.

By Mr. YOUNG:

H.R. 19682. A bill to remove logjams, Lower Guadalupe River, Tex., to the Committee on Public Works.

By Mr. EDWARDS of California:

H. Res. 1247. Resolution on dismissal of professional air traffic controllers by the Federal Aviation Administration; to the Committee on Interstate and Foreign Commerce.

By Mr. HARSHA (for himself and Mr. WINN):

H. Res. 1248. Resolution to authorize the Committee on Post Office and Civil Service to conduct an investigation and study of the methods, procedures, and operations of the Commission on Obscenity and Pornography; to the Committee on Rules.

By Mr. MILLER of California:

H. Res. 1249. Resolution authorizing reprinting of House Report No. 1446; to the Committee on House Administration.

By Mr. PEPPER (for himself, Mr. ADAMS, Mr. BROWN of California, Mrs. CHISHOLM, Mr. FASCELL, Mr. WILLIAM D. FORD, Mr. MATSUNAGA, Mr. MIKVA, Mr. MOORHEAD, Mr. REES, and Mr. SISK):

H. Res. 1250. Resolution on dismissal of professional air traffic controllers by the Federal Aviation Administration; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROUSSELOT introduced a bill (H.R. 19683) for the relief of Beata Both, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

618. By the SPEAKER: Petition of the 1970 annual meeting of the Knights of Columbus Supreme Council, relative to the principle of "local community standards" in the determination of obscene materials; to the Committee on the Judiciary.

619. Also, petition of the city council, Cambridge, Mass., relative to emergency unemployment grants for cities with high unemployment; to the Committee on Ways and Means.

SENATE—*Monday, October 12, 1970*

The Senate met at 10 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Most merciful God, the fountain of all grace and the source of true wisdom and goodness, through the stress of strenuous hours in these tumultuous times, steady our minds moment by moment with the consciousness of Thy presence. Make us to know that it is not by revolution but by the redemptive love made known in the Man of Galilee that man is saved from self-made evils. Bestow upon us the mind and spirit that was His, that we may better serve our fellow man.

O Lord, regard Thy children who live in this privileged land, and bring us to a new unity, to solve by Thy help the problems of poverty, ignorance, and injustice. Forge us into one mighty people, great in charity and good will, "strong in the Lord and in the power of His might," for the making of Thy kingdom on earth.

In the Redeemer's name. Amen.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of February 7, 1969, Mr. MANSFIELD, from the Committee on Appropriations, reported favorably, with amendments, on October 9, 1970, the bill (H.R. 17970) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, and submitted a report (No. 91–1318) thereon, which was printed.